

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4647

BY DELEGATES STEELE AND FOSTER

[Introduced February 11, 2022; referred to the
Committee on Health and Human Resources then
Government Organization]

1 A BILL to amend and reenact §30-6-3, §30-6-8, §30-6-9, §30-6-15, §30-6-16, §30-6-17, §30-6-
2 19, and §30-6-20 of the Code of West Virginia, 1931, as amended; and to amend said
3 code by adding thereto a new section, designated §30-6-22b, all relating to the Board of
4 Funeral Service Examiners; permitting alkaline hydrolysis; clarifying terms; removing
5 apprenticeship restrictions on applicants; clarifying apprenticeship course requirements;
6 clarifying examination requirements; eliminating the requirement for board to provide
7 continuing education; providing for a biennial funeral establishment renewal inspection;
8 providing for certification of alkaline hydrolysis; providing for rules for alkaline hydrolysis;
9 and clarifying recognition of licensees in charge of funeral establishments.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. BOARD OF FUNERAL SERVICE EXAMINERS.

§30-6-3. Definitions.

1 As used in this article, the following words and terms have the following meanings, unless
2 the context clearly indicates otherwise:

3 “Alkaline hydrolysis” means the reduction of a dead human body to essential elements
4 through a water-based dissolution process using alkaline chemicals, heat, agitation, and pressure
5 to accelerate natural decomposition; the processing of hydrolyzed remains after removal from the
6 alkaline hydrolysis vessel; placement of the processed remains in a hydrolyzed remains
7 container; and release the hydrolyzed remains to an appropriate party. Alkaline hydrolysis is a
8 form of final disposition.

9 (a) “Apprentice” means a person who is preparing to become a licensed funeral director
10 or a funeral service licensee ~~and embalmer~~ and is learning the practice of embalming, funeral
11 directing or cremation under the direct supervision and personal instruction of a duly licensed
12 ~~embalmer or funeral director~~ funeral service licensee.

13 ~~(b)~~ “Authorized representative” means a person legally authorized or entitled to order the
14 cremation or burial of the deceased, as established by rule. An authorized representative may
15 include in the following order of precedence:

16 ~~(1)~~ (a) The deceased, who has expressed his or her wishes regarding the disposal of their
17 remains through a last will and testament, an advance directive or preneed funeral contract, as
18 defined in §45-14-2 of this code;

19 ~~(2)~~ (b) The surviving spouse of the deceased, unless a petition to dissolve the marriage
20 was pending at the time of decedent’s death;

21 ~~(3)~~ (c) An individual previously designated by the deceased as the person with the right to
22 control disposition of the deceased’s remains in a writing signed and notarized by the deceased:
23 *Provided*, That no person may be designated to serve in such capacity for more than one
24 nonrelative at any one time;

25 ~~(4)~~ (d) The deceased’s next of kin;

26 ~~(5)~~ (e) A court order;

27 ~~(6)~~ (f) A public official who is charged with arranging the final disposition of an indigent
28 deceased; or

29 ~~(7)~~ (g) A representative of an institution who is charged with arranging the final disposition
30 of a deceased who donated his or her body to science.

31 ~~(e)~~ “Board” means the West Virginia Board of Funeral Service Examiners.

32 ~~(d)~~ “Certificate” means a certification by the board to be a crematory operator.

33 ~~(e)~~ “Courtesy card holder” means a person who only practices funeral directing periodically
34 in West Virginia and is a licensed embalmer and funeral director in a state which borders West
35 Virginia.

36 ~~(f)~~ “Cremated remains” or “cremains” means all human remains, including foreign matter
37 cremated with the human, recovered after the completion of cremation.

38 (g) "Cremation" means the mechanical or thermal process whereby a dead human body
39 is reduced to ashes and bone fragments and then further reduced by additional pulverization,
40 burning or re-cremating when necessary.

41 (h) "Crematory" means a licensed place of business where a deceased human body is
42 reduced to ashes and bone fragments. ~~and includes a crematory that stands alone or is part of or~~
43 ~~associated with a funeral establishment~~

44 (i) "Crematory operator" means a person certified by the board to operate a crematory.

45 (j) "Crematory operator in charge" means a certified crematory operator who accepts
46 responsibility for the operation of a crematory.

47 (k) "Deceased" means a dead human being for which a death certificate is required.

48 (l) "Embalmer" means a person licensed to practice embalming.

49 (m) "Embalming" means the practice of introducing chemical substances, fluids, or gases
50 used for the purpose of preservation or disinfection into the vascular system or hollow organs of
51 a dead human body by arterial or hypodermic injection for the restoration of the physical
52 appearance of a deceased.

53 (n) "Funeral" means a service, ceremony, or rites performed for the deceased with a body
54 present.

55 (o) "Funeral directing" means the business of engaging in the following:

56 (1) (a) The shelter, custody, or care of a deceased;

57 ~~(2) The preparation of a deceased for burial or other disposition~~

58 (3) (b) The arranging or supervising of a funeral or memorial service for a deceased; and

59 (4) (c) The maintenance of a funeral establishment for the preparation, care, or disposition
60 of a deceased.

61 (p) "Funeral director" means a person licensed to practice funeral directing.

62 (¶) “Funeral establishment” means a licensed place of business devoted to: the care,
63 preparation and arrangements for the transporting, embalming, funeral, burial, or other disposition
64 of a deceased. A funeral establishment can include a licensed crematory.

65 (¶) “Funeral service licensee” means a person licensed after July 1, 2003, to practice
66 embalming and funeral directing.

67 (¶) “License” means a license, which is not transferable or assignable, to:

68 (1) (a) Practice embalming and funeral directing; and,

69 (2) (b) Operate a crematory or a funeral establishment.

70 (¶) “Licensee” means a person holding a license issued under the provisions of this article.

71 (¶) “Licensee in charge” means a licensed embalmer and funeral director who accepts
72 responsibility for the operation of a funeral establishment.

73 (¶) “Memorial service” means a service, ceremony, or rites performed for the deceased
74 without a body present.

75 (¶) “Mortuary” means a licensed place of business devoted solely to the shelter, care, and
76 embalming of the deceased.

77 (¶) “Person” means an individual, partnership, association, corporation, not-for-profit
78 organization, or any other organization.

79 (¶) “Registration” means a registration issued by the board to be an apprentice to learn
80 the practice of embalming, funeral directing, or cremation.

81 (¶) “State” means the State of West Virginia.

§30-6-8. Embalmer license requirements.

1 (¶) The board shall issue a license to practice embalming to an applicant who:

2 (1) (a) ~~Is of good moral character~~ Is free of a felony conviction bearing a rational nexus to
3 the profession pursuant to §30-1-24 of this code;

4 (2) (b) Is 18 years of age or over;

5 (3) (c) Is a citizen of the United States or is eligible for employment in the United States;

6 ~~(4)~~ (d) Has a high school diploma or its equivalent;

7 ~~(5)~~ (e) Has completed one of the following education requirements, as evidenced by a
8 transcript submitted to the board for evaluation:

9 ~~(A)~~ ~~(i)~~ (1)(A) Has an associate degree from an accredited college or university; or

10 ~~(ii)~~ (2) Has successfully completed at least 60 semester hours or 90 quarter hours of
11 academic work in an accredited college or university toward a baccalaureate degree with a
12 declared major field of study; and

13 ~~(iii)~~ (3) Has graduated from a school of mortuary science, accredited by the American
14 Board of Funeral Service Education, Inc., which requires as a prerequisite to graduation the
15 completion of a course of study of not less than 12 months; or

16 (B) Has a bachelor degree in mortuary science from an accredited college or university;

17 ~~(6)~~ (f) Has completed a one-year apprenticeship, under the supervision of a licensed
18 embalmer and funeral director actively and lawfully engaged in the practice of embalming and
19 funeral directing in this state, which apprenticeship consisted of:

20 ~~(A)~~ (1) Diligent attention to the work in the course of regular and steady employment and
21 not as a side issue to another employment; and

22 ~~(B)~~ (2) The apprentice taking an active part in:

23 ~~(i)~~ (A) The operation of embalming not less than 35 dead human bodies; and

24 ~~(ii)~~ (B) Conducting not less than 35 funeral services;

25 ~~(7)~~ (g) Passes, with an average score of not less than 75 percent, the following
26 examinations:

27 ~~(A)~~ (1) ~~The National Conference of Funeral Services~~ International Conference of Funeral
28 Service Examining Boards examination at a testing site provided by the national conference,
29 which passage is a condition precedent to taking the state law examination;

30 ~~(B)~~ ~~The state law examination administered by the board, which examination must be~~
31 ~~offered at least twice each year~~

32 ~~(B)~~ (2) The West Virginia Laws, Rules and Regulations Examination, administered by the
33 International Conference of Funeral Service Examining Boards; and

34 ~~(C)~~ (3) Any other examination required by the board; and

35 ~~(8)~~ (h) Has paid all the appropriate fees.

36 ~~(b)~~ A license to practice embalming issued by the board prior to July 1, 2012, shall for all
37 purposes be considered a license issued under this section: *Provided*, That a person holding a
38 license issued prior to July 1, 2012, must renew the license pursuant to the provisions of this
39 article.

§30-6-9. Funeral director license requirements.

1 (a) The board shall issue a license to practice funeral directing to an applicant who meets
2 the following requirements:

3 ~~(1) Holds an embalmer's license issued by the board; and~~

4 (1) Completed a bachelor's degree from an accredited institution; and

5 (2) Completed a two-year apprenticeship under the supervision of a licensee in charge or
6 an active licensed funeral director; and

7 ~~(2)~~ (3) Has paid all the appropriate fees.

8 (b) The two-year apprenticeship must consist of the following work:

9 (1) Diligent attention to the work in the course, or regular and steady employment, and not
10 as a side issue to another employment;

11 (2) Conducting not less than 35 disposition arrangements for individuals;

12 (3) Conducting not less than 35 funeral and/or memorial services; and

13 (4) Passes with an average score of not less than 75 percent, the West Virginia Laws,
14 Rules and Regulations Examination.

15 ~~(b)~~ (c) A license to practice funeral directing issued by the board prior to July 1, 2002, shall
16 for all purposes be considered a license issued under this section: *Provided*, That a person

17 holding a license issued prior to July 1, ~~2002~~ 2022, must renew the license pursuant to the
18 provisions of this article.

§30-6-15. Continuing education.

1 ~~(a) The board shall conduct annually a school of instruction to apprise funeral directors~~
2 ~~and embalmers of the most recent scientific knowledge and developments affecting their~~
3 ~~profession. This school shall qualify as continuing education and shall fulfill as many continuing~~
4 ~~education required hours as the board specifies. Qualified lecturers and demonstrators may be~~
5 ~~employed by the board for this purpose. The board shall give notice of the time and place at which~~
6 ~~the school will be held for all licensed funeral directors and embalmers: *Provided*, That the location~~
7 ~~of any school of continuing education shall accommodate the geographic diversity of the~~
8 ~~embalmers and funeral directors of this state~~

9 ~~(b)~~ (a) Hours of continuing education may be obtained by attending and participating in
10 board-approved programs, meetings, seminars, or activities. It is the responsibility of each
11 licensee to finance his or her costs of continuing education.

12 ~~(c)~~ (b) Compliance with the requirements of continuing education, as specified by the
13 board, is a prerequisite for license renewal.

§30-6-16. Inspector and inspection requirements.

1 (a) All inspectors employed by the board to inspect funeral establishments and
2 crematories, pursuant to the provisions of this article, shall have a West Virginia embalmer's
3 license and a West Virginia funeral director's license.

4 (b) Each inspector shall inspect a specific region, as designated by the board. Any person
5 being employed as an inspector is prohibited from inspecting in the region in which he or she
6 practices. If there is only one inspector, a board member, who is not from the region where the
7 inspector practices, is authorized to inspect the facilities in the region where the inspector
8 practices.

9 (c) All inspections shall be conducted in a manner so as not to interfere with the conduct
10 of business within the funeral establishment or crematory. The board has the authority to enter,
11 at all reasonable hours, for the purpose of inspecting the premises in which the business of
12 embalming, funeral directing, or cremating is conducted.

13 (d) All of an inspector's expenses, per diem and compensation shall be paid out of the
14 receipts of the board, but the allowances shall at no time exceed the receipts of the board.

15 (e) The board is authorized to set fees for inspections: *Provided*, That there shall be no
16 fee for ~~an annual~~ a biennial inspection, based on the funeral establishment's renewal date.

§30-6-17. Apprenticeship.

1 (a) After ~~January 1, 2003~~ July 1, 2022, the board shall issue a registration to be an
2 apprentice ~~funeral director or apprentice embalmer~~ funeral service licensee to an applicant who
3 meets the following requirements:

4 (1) ~~Is of good moral character and temperate habits~~ Is free of a felony conviction bearing
5 a rational nexus to the profession pursuant to §30-1-24 of this code;

6 (2) Is 18 years of age or over;

7 (3) A is a citizen of the United States or be eligible for employment in the United States;

8 (4) Has a high school diploma or its equivalent;

9 ~~(5) Has completed one of the education requirements for an embalmer's license, as set~~
10 ~~out in subdivision (5), subsection (a), section eight of this article;~~

11 ~~(6) Is not attending school and will not be attending school during the apprenticeship~~
12 ~~period;~~

13 (5) The required 60 semester hours or 90 quarter hours of college or university credits and
14 mortuary school can be completed prior to, during, or after the apprenticeship; and

15 ~~(7)~~ (6) Has paid the appropriate fees.

16 (b) Any person that commences an apprenticeship prior to January 1, 2003, may continue
17 to serve such apprenticeship and is not subject to the requirements set forth in this section, but is
18 subject to board approval.

19 (c) The board may set the requirements for an apprenticeship, including the manner in
20 which it shall be served and the length of time, which shall not be more than one year for funeral
21 service licensee and shall not be more than two years for a funeral director.

22 (d) No licensed funeral director or licensed embalmer shall be permitted to register or have
23 registered more than five apprentices under his or her license at the same time.

§30-6-19. Funeral establishment to be managed by a licensee in charge; license displayed.

1 (a) Every separate funeral establishment in this state offering the services set forth in this
2 article shall be operated under the supervision and management of a licensee in charge who is
3 licensed as a funeral director in this state who shall hold an active:

- 4 (1) Funeral Service licensee's license in the State of West Virginia;
- 5 (2) Embalmers license in the State of West Virginia;
- 6 (3) Crematory Operator certificate in the State of West Virginia; and
- 7 (4) Pre-Need license in the State of West Virginia.

8 (b) Each separate funeral establishment in this state offering the services set forth in this
9 article shall have its own license, which license shall be prominently displayed within the funeral
10 establishment.

11 (c) All funeral establishments shall display in all advertising the name of the licensee in
12 charge of the establishment.

13 (d) All funeral establishments shall prominently display within the funeral establishment
14 the license of the licensee in charge.

15 (e) A licensee in charge shall supervise each separate establishment.

16 (f) Effective July 1, 2022, the board shall allow up to two (2) years to complete the
17 requirements under this section for the licensee in charge.

§30-6-20. Crematory license requirements.

1 (a) Every crematory shall be licensed in West Virginia. Effective July 1, 2022, every
2 crematory in this state shall be operated by a West Virginia licensed funeral establishment. The
3 board shall issue a crematory license to an applicant who meets the following requirements:

4 (1) The place of business has been approved by the board as having met all the
5 requirements and qualifications to be a crematory as are required by this article;

6 (2) The crematory conforms with all local building codes;

7 (3) The crematory meets all applicable environmental standards;

8 (4) Notify the board, in writing, at least 30 days before the proposed opening date so there
9 can be an inspection of the crematory;

10 (5) Show proof that the crematory passed the inspection;

11 (6) Have a certified crematory operator in charge;

12 (7) Pay all the appropriate fees; and

13 (8) Complete such other requirements as specified by the board.

14 (b) All crematory licenses must be renewed biennially, by a staggered schedule, upon or
15 before July 1, and pay a renewal fee.

16 (c) Each crematory license shall be valid for only one crematory to be located at a specific
17 street address. There shall be a separate license issued and a separate fee assessed to operate
18 additional crematories by the same applicant.

19 (d) A holder of a crematory license that fails to pay fees for either the principal crematory
20 or additional crematories by July 1, of the renewal year is subject to a penalty, a reinstatement
21 fee for each crematory, and the required renewal fee.

22 (e) The holder of a crematory license who ceases to operate the crematory at the location
23 specified in the application shall, within 20 days thereafter, surrender the crematory license to the
24 board and the license shall be canceled by the board. In the event of the death of an individual
25 who was the holder of a crematory license, it shall be the duty of the holder's personal

26 representative to surrender the crematory license within 120 days of qualifying as the personal
27 representative.

28 (f) A holder of a certificate to operate a crematory whose certificate to operate has been
29 revoked or a holder of a crematory license whose license has been revoked shall not operate,
30 either directly or indirectly, or hold any interest in any crematory or funeral establishment:
31 *Provided*, That a holder of a crematory license whose license has been revoked is not prohibited
32 from leasing any property owned by him or her for use as a crematory, so long as the property
33 owner does not participate in the control or profit of the crematory except as lessor of the premises
34 for a fixed rental not dependent upon earnings.

35 (g) Failure to comply with any of these provisions shall be grounds for revocation of a
36 crematory license.

37 (h) All persons that operate crematories shall by January 1, 2003, register with the board.
38 By July 1, 2003, all persons that operate crematories shall obtain a crematory license, pursuant
39 to the provisions of this section.

40 (i) All crematory licenses must be renewed biennially upon or before July 1.

41 (j) After July 1, 2003, all licensed crematories must have a certified crematory operator in
42 charge.

43 (k) If a certified crematory operator in charge ceases to be employed by a crematory, then
44 the holder of the crematory license shall notify the board within 30 days of the cessation. Within
45 30 days after such notification, the holder of a crematory license shall execute a new application
46 for a crematory license specifying the name of the new certified crematory operator in charge. A
47 crematory is prohibited from operating more than 30 days without a certified crematory operator
48 in charge.

§30-6-22b. Certification for alkaline hydrolysis of human remains.

1 (a) No person, funeral establishment, corporation, partnership, joint venture, voluntary
2 organization, or other entity shall hydrolyze human remains without first obtaining a certificate
3 from the board.

4 (b) Except as otherwise provided by this article, a certificate for the hydrolysis of human
5 remains shall have the same requirements and fees as for the licensing of crematories under this
6 article. The alkaline hydrolysis of human remains shall be conducted in compliance with all
7 requirements for cremation.

8 (c) The board shall have the same powers to regulate, enforce, discipline, and inspect
9 alkaline hydrolysis certificate holders and the practice of alkaline hydrolysis that have been
10 granted under this article for the regulation, enforcement, discipline, and inspection of crematories
11 and the practice of cremation.

12 (d) Any solid remains or residue remaining after alkaline hydrolysis shall be treated and
13 disposed of as cremated remains under this article. Disposal of liquid waste shall be subject to all
14 applicable health and environmental laws and regulations.

15 (e) Human remains shall be hydrolyzed in an alkaline hydrolysis container and may not
16 be required to be hydrolyzed in a casket.

17 (f) Unless specified otherwise by the manufacturer of the equipment used for alkaline
18 hydrolysis, human remains may be hydrolyzed without first removing a pacemaker or defibrillator.
19 Any other potentially hazardous implanted device or material shall be handled in accordance with
20 applicable state laws and regulations.

21 (g) The board shall promulgate legislative rules necessary to define the education and
22 requirements for the certification to perform alkaline hydrolysis.

NOTE: The purpose of this bill is to modify licensure requirements by allowing certification of alkaline hydrolysis for the disposal of human remains, removing the requirement for the board to provide continuing education, removing apprenticeship restrictions on applicants; clarifying apprenticeship course requirements, clarifying examination requirements, providing for a biennial funeral establishment renewal inspection, providing for the board to promulgate rules for alkaline hydrolysis, and clarifying recognition of licensees in charge of funeral establishments.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.