

# **Governor's Office of Management and Budget**

Alexis Sturm

Director



## **IL Regulatory Sunset Act Review of The Funeral Directors and Embalmers Licensing Code**

March 22, 2022

**To the Honorable JB Pritzker  
Governor of Illinois**

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Funeral Directors and Embalmers Licensing Code (225 ILCS 41), which is scheduled to sunset on January 1, 2023. As a result of this review, GOMB makes the following recommendation:

The Funeral Directors and Embalmers Licensing Code (225 ILCS 41) should be continued with the following modifications to its existing statutory and administrative rule framework:

- Update the language to comport with recently updated acts; and
- Remove outdated language (i.e. sections allowing for grandfathering if applied for licensure prior to the effective date of the act, roster language, etc.) to minimize confusion.

GOMB's examination of this Act was conducted considering the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm  
Director  
Governor's Office of Management and Budget

**Criteria (1) “The extent to which the agency or program has permitted qualified applicants to serve the public.”**

At the end of Fiscal Year 21, there were 3,037 total licensees under the Act. Below are the numbers of new licenses issued in the previous five years:

License Type	2017	2018	2019	2020	2021
Licensed Funeral Director	68	68	62	62	62
Licensed Funeral Director and Embalmer Intern	118	148	123	139	168
Licensed Funeral Director and Embalmer	2697	2769	2657	2734	2739
Funeral Director and Embalmer CE Sponsor	58	62	60	65	68
<b>Total</b>	<b>2,941</b>	<b>3,047</b>	<b>2,902</b>	<b>3,000</b>	<b>3,037</b>

The current licensure fee structure is as follows:

Application for a License	Fee Amount
Funeral Director and Embalmer License	\$100
Funeral Director and Embalmer License by Endorsement	\$200
Funeral Director and Embalmer Intern License	\$50

License Renewal	Fee Amount
Funeral Director and Embalmer License	\$50 per year
Funeral Director and Embalmer Intern License	\$50 per year
Funeral Director License	\$25 per year

There are several colleges and universities that offer funeral service and mortuary science programs throughout the State of Illinois. These programs are accredited by the American Board of Funeral Service Education which serves as the national academic accreditation agency for college and university programs in Funeral Service and Mortuary Science Education.

The examination for a funeral director and embalmer license is administered the International Conference of Funeral Service Examining Boards (the Conference) and covers embalming, restorative art, microbiology, pathology chemistry, and anatomy. It also covers sociology of funeral service, psychology and counseling, funeral directing and professional relationships, business law, funeral service law, funeral merchandising, and accounting. The passing score is established by the Conference and verification is received directly from the Conference.

Statute authorizes the Department to adopt all necessary and reasonable rules and regulations for the effective administration of the Funeral Directors and Embalmers Licensing Code (225 ILCS 41/1-30). Rules were adopted (Administrative Code Title 68 Section 1250.220) to outline the continuing education (CE) requirements as follows:

- Funeral Director and Embalmer: 24 CE hours per renewal cycle
  - o The 24 CE hours shall include a minimum of six interactive CE hours related to the practice of funeral directing and a minimum of six interactive CE hours related to the practice of embalming. No more than six CE hours may consist of insurance courses.
- Funeral Director: 12 CE hours per renewal cycle
  - o No more than three CE hours may consist of insurance courses.

The licensing requirements for funeral directors and embalmers vary by state and can also be different for both funeral directors and embalmers. In every state except Colorado, funeral directors must be licensed.

***Criteria (2) "The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services."***

The IDFPR does not collect information on the gender, race, or ethnicity of licensees. The IDFPR has received no complaints citing discrimination in the licensing process, and no external sources have published any information regarding discriminatory practices in licensure. Further, IDFPR has not received any complaints alleging discrimination by appraisers.

***Criteria (3) "The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters."***

The IDFPR is tasked with processing applications for licenses and renewal licenses for over one million professionals practicing in the State of Illinois. The Department has adopted internal policies, sought legislative and administrative rule changes, and developed enhanced licensing processes to maintain efficiency and efficacy. Implementation of online, paperless licensing is one example of such a policy that has proved to be successful. While some procedures, such as the disciplinary process for licensees, can be lengthy, this is done to ensure thoroughness and proper due process for complaints against regulated professionals.

***Criteria (4) "The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates."***

N/A

***Criteria (5) "The extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service."***

The IDFPR establishes rules and makes regulatory decisions through the process established by the Joint Committee on Administrative Rules (JCAR), the administrative body responsible for approving rule proposals by state agencies. This process allows for input from industry and community stakeholders impacted by the Department's proposed changes. The Department works with lawmakers, community stakeholders, and members of industry to ensure that regulations effectively protect Illinois citizens.

The Funeral Directors and Embalmers Licensing Code also requires the Department to seek, and its Administration and Disciplinary Board to provide, recommendations to the Department consistent with the provisions of the Act for the administration and enforcement of all rules adopted pursuant to this Act.

***Criteria (6) "The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public."***

The Funeral Directors and Embalmers Licensing and Disciplinary Board is an advisory board composed of six licensed funeral directors and embalmers and one knowledgeable public member. The Department considers the recommendation of the Board in the development of proposed rules and seeks the advice and recommendations of the Board in connection with any disciplinary action relating to funeral director and embalmers and funeral

director and embalmer interns including applications for restoration of revoked licenses.

***Criteria (7) “The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority.”***

IDFPR adheres to the guidelines and requirements established by the Joint Committee on Administrative Rules (JCAR) and the Illinois General Assembly (ILGA) for approving rule proposals, legislative changes and internal policies, that includes public notice and comment periods. In addition, the Department adheres to the requirements established in the Illinois Open Meetings Act (5 ILCS 120). The Department regularly invites input from members of the public who attend monthly meetings of the Funeral Directors and Embalmers Licensing and Disciplinary Board.

***Criteria (8) “The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government.”***

Complaints made against licensees of IDFPR’s Division of Professional Licensing may be filed via mail, email, or phone. Once a complaint is opened, it is referred to the Division’s Investigations Unit to determine if a violation of the regulatory act or rules occurred. If the Investigations Unit determines that a violation has or may have occurred, the matter is then referred to the Division’s Prosecutions Section.

Fiscal Year(s): 2017 - 2021	Totals
Fine	54
Reprimand	42
Tax Suspension	20
Child Support Suspension	6
Probation w/Compliance	9
Cease and Desist	1
Permanent Inactive	1
Refuse to Renew	3
Reprimand w/Monitoring	1
Revocation	5
Suspension	19
<b>Grand Total</b>	<b>161</b>

***Criteria (9) “The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section.”***

The IDFPR recommends the sunset of the Act be extended and that statutory language modernized to implement more streamlined and efficient regulation of this profession, This will ensure safety and welfare of the general public and ease the burden of regulatory compliance by:

- Updating the language to comport with recently updated acts; and
- Removing outdated language (i.e. sections allowing for grandfathering if applied for licensure prior to the effective date of the act, roster language, etc.) to minimize confusion.

**Conclusion:**

The absence of regulation of the funeral directors and embalmers industry would pose a significant and direct harm to the safety and welfare of the public. It also would jeopardize the ethical standards that help to preserve the best interests of consumers and as well as the proper disposition of a deceased human body. In 1982, the U.S. Federal Trade Commission (FTC) mandated Funeral Industry Practices, which is referred to as the “Funeral Rule,” to protect consumer interests and provide guidelines that outline the rights afforded to consumers. Without the “Funeral Rule” and state regulations, consumers are at risk of being defrauded and overcharged for funeral services. Furthermore, deceased human beings are also at risk of inadequate preparation and care during the disposition process. Public health is a serious factor to consider in support of regulating a profession. The other two factors, public safety and public welfare, would also be jeopardized in the absence of regulation.