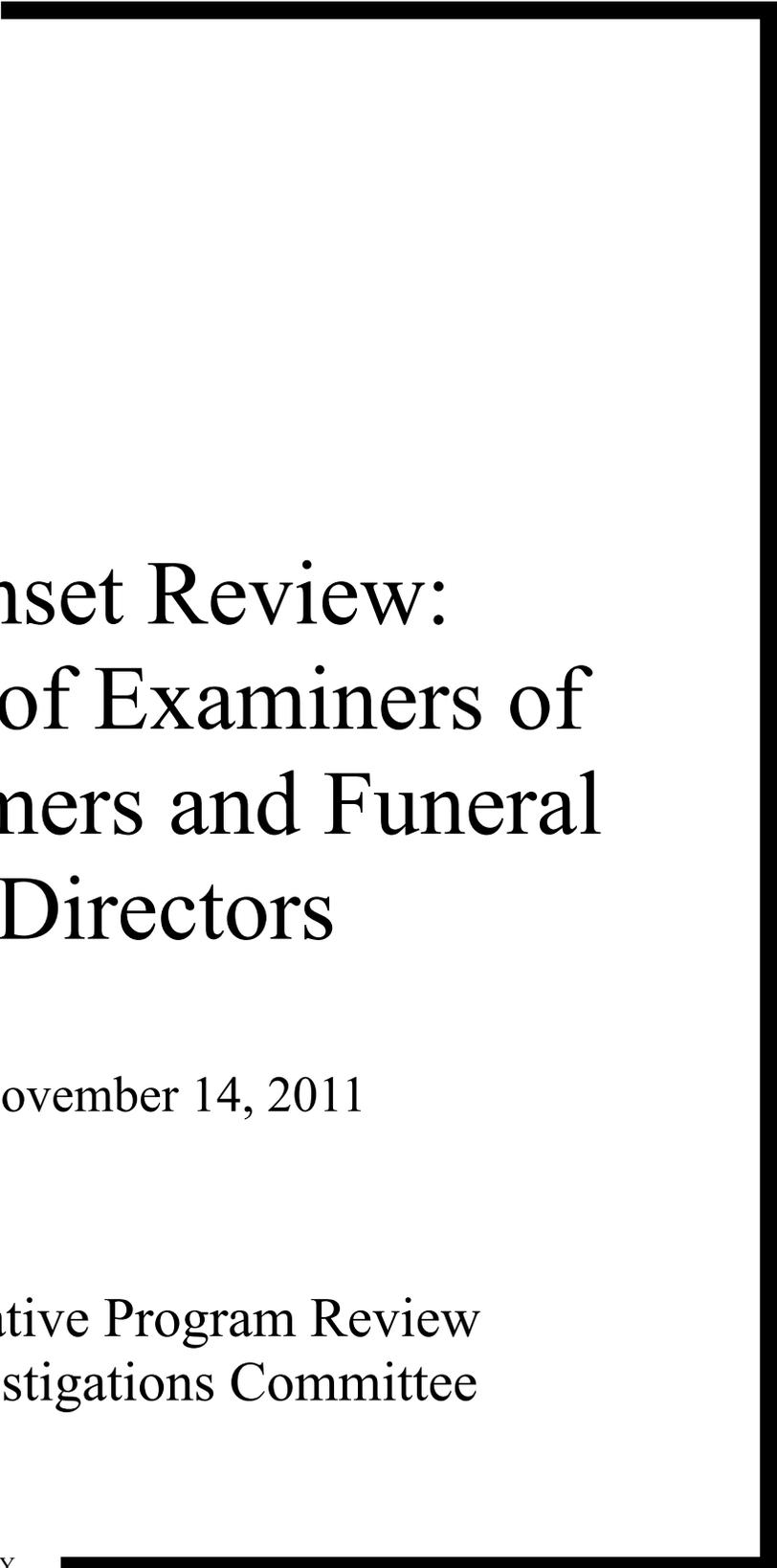


Staff Briefing



Sunset Review:
Board of Examiners of
Embalmers and Funeral
Directors

November 14, 2011

Legislative Program Review
& Investigations Committee

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Introduction

Sunset Review Law and Process

The Legislative Program Review and Investigations Committee (PRI) voted to conduct this sunset review performance audit on September 27, 2011. Chapter 28 (*Connecticut Sunset Law*) of the Connecticut General Statutes (C.G.S. Secs. 2c-1 through 2c-12) terminates 75 specified entities or programs over a five-year cycle, starting July 1, 2013, unless the legislature votes to reestablish each of them. The Sunset Law, enacted in 1977, was created as a way for the legislature to address the increase of governmental entities and programs that appeared to be occurring with little or no oversight or regulatory accountability. Through periodic and comprehensive reviews, selected entities and programs found to not significantly benefit the public health, safety, or welfare of Connecticut's residents could be modified or terminated. The complete Connecticut Sunset Law is found in Appendix A of this report.

Prior to any termination date, the current sunset review process for each entity or program requires:

- a **PRI performance audit** which is based on, but not limited to, certain criteria in statute;
- a **written report** (submitted to the Government Administration and Elections Committee (GAE) and the General Assembly) summarizing the PRI performance audit findings and making recommendations to abolish, reestablish, modify, or consolidate the specific entity or program under review;
- a **public hearing** by GAE, and GAE may make recommendations to reestablish, modify, or consolidate with another entity; and
- **action or non-action** by the General Assembly as a whole.

The sunset law provides two sets of criteria to guide the General Assembly in carrying out the sunset review process. Per C.G.S. Sec. 2c-7, this first set of criteria is used to help determine whether there is a *public need for continuing the regulatory entity or program*:

1. whether termination of the entity or program would significantly endanger public health, safety or welfare;
2. whether the public could be adequately protected by another statute, entity or program, or by a less restrictive method of regulation;
3. whether the entity or program produces any direct or indirect increase in cost of goods or services, and if so, whether public benefits attributable to the entity or program outweigh the public burden of the increase in cost; and

4. whether the effective operation of the entity or program is impeded by existing statutes, regulations or policies, including budgetary and personnel policies.

In addition to the first set of criteria, the second set of criteria (per C.G.S. Sec. 2c-8) is used to help determine *whether a regulatory entity or program serves the general public, and not merely the persons regulated*:

1. the extent to which qualified applicants have been permitted to engage in any profession, occupation, trade, or activity regulated by the entity or program;
2. the extent to which the governmental entity involved has complied with federal and state affirmative action requirements;
3. the extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated;
4. the extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies; and
5. the manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to regulation.

Methodology

One of the 27 entities or programs on the first year of the sunset list (set to terminate July 1, 2013) and chosen for this PRI sunset review performance audit is the *Board of Examiners of Embalmers and Funeral Directors*, located within and assisted by the Department of Public Health (DPH). Having been on the sunset list since the inception of the sunset law in 1977, the one and only time the Board was the subject of a sunset report was in 1980. In the 1980 report, recommendations included continuation of licensure for funeral directors and embalmers, termination of the Board of Examiners of Embalmers and Funeral Directors, and transfer of regulatory authority to the Department of Consumer Protection. The complete recommendations from that sunset review are found in Appendix B.

For this review, program review committee staff conducted several interviews and obtained information from members of the Board of Examiners of Embalmers and Funeral Directors, and staff from the Department of Public Health (DPH), Department of Consumer Protection (DCP), and Auditors of Public Accounts. Program review committee staff also met with the Connecticut Funeral Directors Association.

As part of the sunset review performance audit, surveys are distributed by PRI staff to the parties involved in the regulation of the entity or program.¹ In this review, surveys were completed by both members of the Board of Examiners of Embalmers and

¹ The sunset law requires each entity or program under review to provide PRI with an analysis of its activities that specifically address the two sets of criteria found in statute (C.G.S. Secs. 2c-7, 2c-8).

Funeral Directors, and the Department of Public Health's Practitioner Licensing and Investigations Section staff. Appendix C summarizes these responses.

Report Organization

The briefing report is organized into three sections. The first section provides background information on embalmers and funeral directors. It contains the legislative history of the Board of Examiners of Embalmers and Funeral Directors, an overview of the professions including requirements for licensure, and fiscal information. Section II describes the regulation of embalmers, funeral directors, and funeral homes by the Department of Public Health, Department of Consumer Protection, and federal regulation. The section also provides information on regulation in other states. Section III describes the complaints that have been lodged against embalmers, funeral directors and funeral homes.

Section I

Background Information on Embalmers and Funeral Directors

Legislative History of Board of Examiners of Embalmers and Funeral Directors

The practice of preserving corpses through embalming became an increasingly acceptable American practice during the Civil War and at the time of Abraham Lincoln’s death, when his embalmed body was on display as it was transported from Washington, D.C. to Springfield, IL. As shown in Table I-1, in Connecticut, the regulation of embalmers through state licensure began in 1903. The primary purpose at that time was the disinfection of bodies to control the spread of communicable diseases.

Table I-1 shows legislative changes that have occurred over the years in the regulation of embalmers and funeral directors, a responsibility shared by the Board (*Board of Examiners of Embalmers and Funeral Directors*) and Agency (currently *Department of Public Health*).

Table I-1. Legislative History of Board of Examiners of Embalmers and Funeral Directors	
Year	Change
1903	<ul style="list-style-type: none"> • Established CT Board of Examiners of Embalmers • Licensure of embalmers initiated
1941	Licensure of funeral directors initiated
1951	Established CT Board of Examiners of Embalmers and Funeral Directors
1977 (P.A. 77-614)	<ul style="list-style-type: none"> • Revised membership of Board to include two public members in place of two embalmers • Transferred licensing and other regulatory powers from Board to Agency • Transferred selection of licensing exam questions from Agency to Board • Transferred responsibility for sanitary standards from Board to Agency
1980 (P.A. 80-484)	<ul style="list-style-type: none"> • Transferred selection of licensing exam questions from Board to Agency • Board’s power to suspend or revoke licenses was expanded to include other disciplinary actions (e.g., reprimand, probation) • Deems resignation of any Board member failing to attend 3 consecutive meetings or half of all meetings held during any calendar year.
1991 (P.A. 91-12)	Eliminated expense reimbursement for Board members
Source: Connecticut General Statutes.	

Definition/Nature of Profession

Connecticut, like all other states except Colorado, regulates the death industry. There are a number of Connecticut laws controlling the treatment of a deceased person's body, many involving a licensed funeral director or embalmer. In Connecticut, when a person dies, only a licensed embalmer or funeral director may move the corpse (They must first temporarily wrap the body). A **death certificate**² must be completed and filed with the registrar of vital statistics in the town where the person died (within 5 days of death for paper filing, and within 3 days for electronic filing). Also, the embalmer or funeral director must obtain a **removal, transit and burial permit** within 5 days of death from the town registrar before burial or cremation can occur. The permit specifies where the burial/interment is, and that the death certificate has been recorded.

By law, each funeral home must employ an embalmer, who may serve as a funeral director. An embalmer's license allows the person to act as a funeral director. A licensed funeral director, however, may not assume the duties of an embalmer. In 2010, Connecticut had **828 licensed embalmers, 59 licensed funeral directors, and 19 embalmer apprentices**. Connecticut also had 295 funeral homes in 2010.

Embalmers. Embalmers are responsible for the injection of fluid into the corpse for the purpose of preservation. Figure I-1 shows the typical tasks of an embalmer.

Figure I-1. Typical Tasks of Embalmers

- Conform to laws of health and sanitation, and ensure that legal requirements concerning embalming are met.
- Apply cosmetics to impart lifelike appearance to the deceased.
- Incise stomach and abdominal walls and probe internal organs, using trocar, to withdraw blood and waste matter from organs.
- Close incisions, using needles and sutures.
- Reshape or reconstruct disfigured or maimed bodies when necessary, using derma-surgery techniques and materials such as clay, cotton, plaster of paris, and wax.
- Make incisions in arms or thighs and drain blood from circulatory system and replace it with embalming fluid, using pump.
- Dress bodies and place them in caskets.

Source: CT Department of Labor Training & Education Planning System (TEPS).

The control of the spread of communicable diseases continues to be a responsibility of embalmers today. For example, both embalmers and funeral directors are required to report incidences of death due to any of the approximately 80

² The medical portion of the death certificate is completed by specified medical personnel, and forwarded to the licensed funeral director or embalmer.

communicable diseases listed and published annually by DPH, file an affidavit that the body has been disinfected and prepared in accordance with the Public Health Code, and notify the family (or building owner where death occurred), that they need to thoroughly disinfect any infectious material, clothing, instruments etc. According to the latest mortality tables published on the CT DPH website, there were causes of death listed for 28,749 deaths in Connecticut in 2008, and 3,588 of them (12.48 percent) were attributed to a communicable disease.³

Funeral Directors. Funeral directing is the business of providing funeral services, handling and transporting bodies, and maintaining an establishment for funeral services. Figure I-2 shows the typical tasks of a funeral director.

Figure I-2. Typical Tasks of Funeral Directors

- Consult with families and/or friends of the deceased to arrange funeral details such as obituary notice wording, casket selection, and plans for services.
- Plan, schedule and coordinate funerals, burials, and cremations, arranging such details as the time and place of services.
- Obtain information needed to complete legal documents such as death certificates and burial permits.
- Oversee the preparation and care of the remains of people who have died.
- Contact cemeteries to schedule the opening and closing of graves.
- Provide information on funeral service options, products, and merchandise, and maintain a casket display area.
- Manage funeral home operations, including hiring and supervising embalmers, funeral attendants, and other staff.

Source: CT Department of Labor Training & Education Planning System (TEPS).

As described earlier, the death certificate is filled out by a funeral director or embalmer in charge of the burial/cremation of the deceased person's body (except in cases where the Chief Medical Examiner's Office is conducting an investigation) and filed with the town registrar of vital statistics.

As an example of the expense involved in the death industry, Table I-2 shows the national average cost of an adult funeral in 2009. As a note, cremations may range from \$2,000-\$3,000 and are reportedly growing in popularity. Approximately one-third (37 percent) of persons who died in Connecticut in 2006 were cremated. Nationally, it is projected that 46 percent will be cremated in 2015 and 59 percent by 2025.⁴ Note that

³ Includes deaths caused by infectious and parasitic diseases (978), septicemia related (1,807), HIV (115), and pneumonia and influenza (688).

⁴ Cremation Association of North America, August 2009 Report: "2007 Statistics and Projections to the Year 2025: 2008 Preliminary Data."

bodies going to a crematory need to be accompanied by a cremation permit. The town registrar authorizes the cremation certificate and issues a cremation permit.

Table I-2. National Average¹ Cost of an Adult Funeral in 2009	
Item	Cost
Non-declinable basic services fee	\$1,817
Removal/transfer of remains to funeral home	\$250
Embalming	\$628
Other preparation of the body	\$200
Use of facilities/staff for viewing	\$395
Use of facilities/staff for funeral ceremony	\$450
Hearse	\$275
Service car/van	\$125
Basic memorial printed package	\$125
<i>Subtotal without casket</i>	\$4,265
Metal casket (average charge for the most frequently purchased item)	\$2,295
AVERAGE COST OF A FUNERAL	\$6,560
<i>Vault (average charge for the most frequently purchased item)</i>	\$1,195
Total with vault	\$7,755
¹ Median price was used (i.e., half fall below and half are above the price shown) Source: NFDA ⁵ 2010 member General Price List survey.	

Requirements for Entry into the Profession

Requirements for licensure. Except for the embalmer license requirement of embalming 50 bodies under the supervision of a licensed embalmer and passing a practical exam where the candidate actually demonstrates his/her embalming skills on a cadaver, the license requirements for embalmers and funeral directors are the same. Both student funeral directors and student embalmers have to study and observe embalming and pass a national test that includes questions about embalming. Because an embalmer's license allows the person to act as a funeral director (but not the reverse), the vast majority become licensed as embalmers. However, Connecticut continues to offer the funeral director's license.

To receive an embalmer or funeral director license, an applicant must fulfill the following requirements:

- **Educational Requirement:** Successful completion of either: 1) an *associate's degree* in mortuary science from an education institution accredited by the American Board of Funeral Service Education (ABFS); or 2) a *diploma* (not an associate's degree) in mortuary science from an ABFS program plus a *baccalaureate degree* with six semester hours (or nine trimester hours) in the following content areas related to funeral service: business management,

⁵ The National Funeral Directors Association (NFDA) is the largest funeral service association, serving 18,500 individual members representing over 9,900 funeral homes in the United States and internationally.

accounting, finance, merchandising, business law, computer applications, ethics, counseling, and psychology.⁶

- Apprenticeship Requirement: After successful completion of the educational requirement, an applicant is required to obtain a permit from DPH to complete the required apprenticeship training. The one-year apprenticeship training must be:
 - full-time;
 - paid employment;
 - under the supervision of a licensed embalmer; and
 - (for embalmer apprentices only) embalming or assistance in embalming at least 50 human bodies.

- Examination Requirements:
 - passage of the written Arts and Sciences examination of the national Conference of Funeral Service Examining Boards (approximately 77% national passage rate);
 - passage of the written Connecticut state laws/regulations examination;⁷ and
 - (for embalmer applicants only) passage of practical examination (requires the embalming of a human cadaver under the direction of an examiner designated by the Department and the Connecticut Board of Examiners of Embalmers and Funeral Directors).

Licensing statistics. During FY 09, there were 20 applications received for embalmer licensure, and all 20 applicants were granted licenses. Similarly, there were 3 applications for funeral director licensure, and all 3 applicants were granted licenses.

Figure I-3 shows there has been a relatively steady number of licensed embalmers in Connecticut over the past five years.

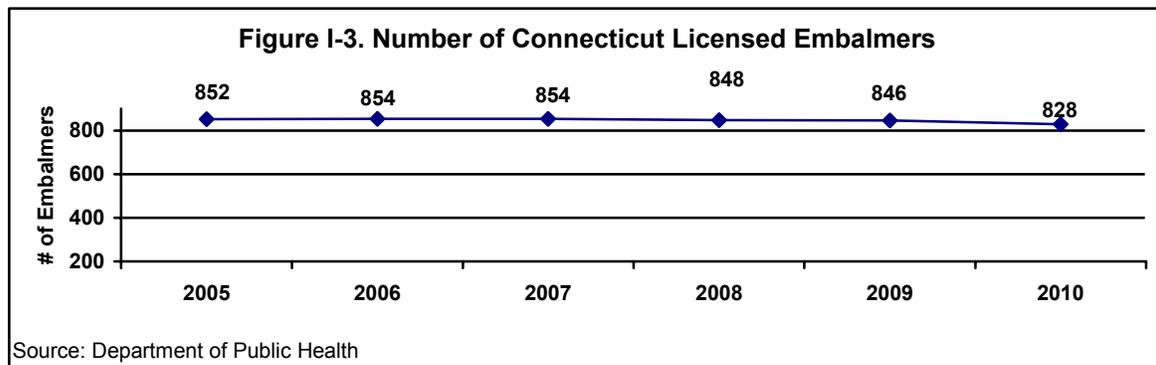


Figure I-4 shows there has been a 20 percent decrease in the number of licensed funeral directors in Connecticut over the past five years.

⁶ Lincoln College of New England in Southington, CT is the only state school (for-profit) to offer mortuary science degrees: an associate degree (Mortuary Science Associate of Applied Science) and a bachelor's degree (Bachelor of Science Degree in Funeral Service Management).

⁷ Exam tests applicant's knowledge of the Connecticut General Statutes, Connecticut Public Health Code, and federal guidelines pertaining to the funeral industry.

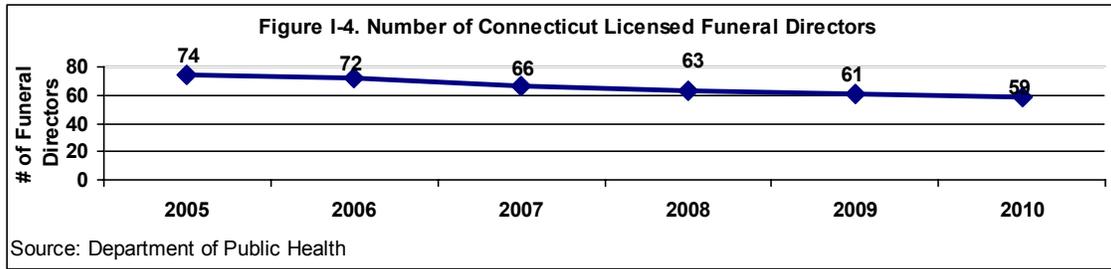
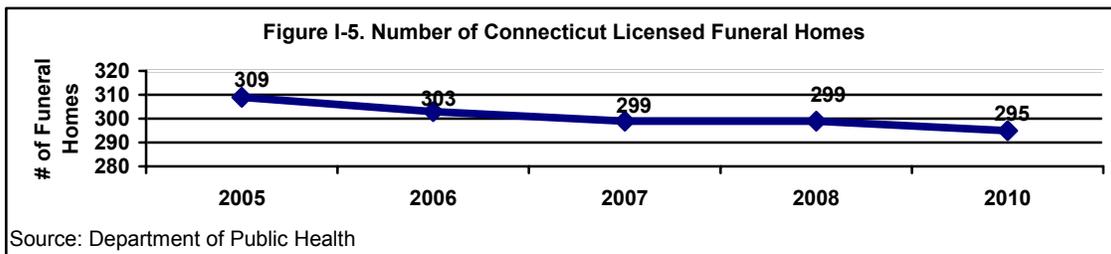


Figure I-5 shows a gradual decreasing trend in the number of licensed funeral homes in Connecticut over the past five years. Factors contributing to this decrease include consolidation of funeral home locations and funeral director retirements.



Fiscal Information

The expenses and revenue identified by the Department of Public Health for the regulation of embalmers, funeral directors, and funeral homes are shown in Table I-3. There may be additional expenses that will be identified as part of this sunset review performance audit, such as expenses associated with DPH processing of licensing applications, preparing consent orders and activities associated with public hearings.

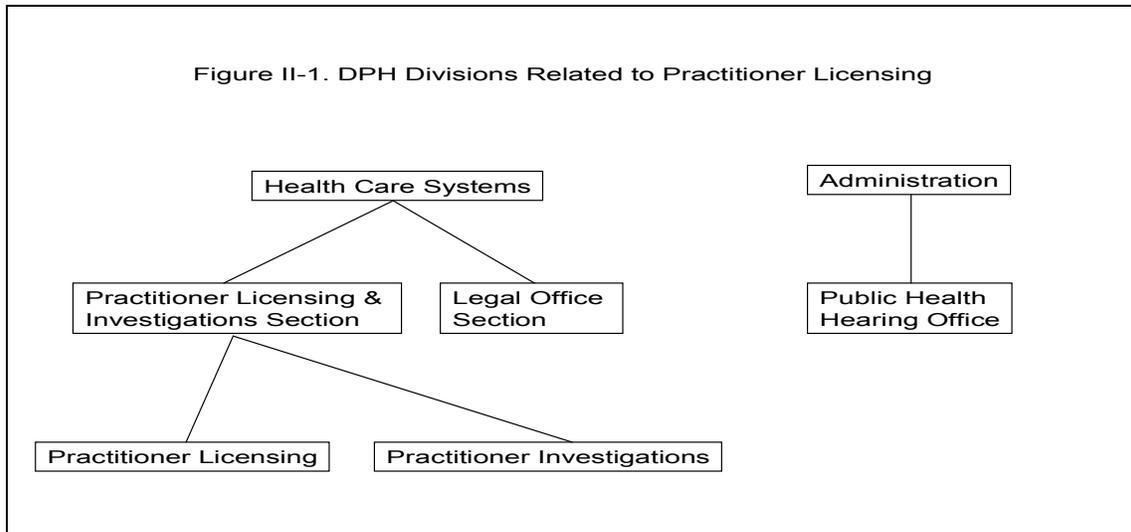
Table I-3. FY 11 Expenses and Revenue for Regulating Embalmers, Funeral Directors, and Funeral Homes	
Expenses	Amount
Salary for 1 full time DPH staff person to conduct funeral home inspections and investigations of embalmers and funeral directors	\$75,416
Printing documents and postage	\$30,654
TOTAL EXPENSES	\$106,070
Revenue	
<i>From New Applications For:</i>	
Embalmers (22 @ \$210 per application)	\$4,620
Funeral Directors (1 @ \$210 per application)	\$210
Funeral Home Certificates (8 @ \$375 per application)	\$3,000
<i>From License/Certificate Renewals For:</i>	
Embalmers (791 @ \$110 per renewal)	\$87,010
Funeral Directors (56 @ \$230 per renewal)	\$12,880
Funeral Home Inspection Certificates (296 @ \$190 per renewal)	\$56,240
<i>From Civil Penalties:</i>	\$19,000
TOTAL REVENUE	\$182,960

Source: DPH.

Section II

Regulation of Embalmers, Funeral Directors, and Funeral Homes

The Board of Examiners of Embalmers and Funeral Directors is supported by DPH personnel (see Figure II-1). Support for administrative hearings conducted by the Board, for example, is found within the DPH Administration branch.



In the Practitioner Licensing & Investigations Section, license applicant analysts within the Practitioner Licensing Unit are responsible for the initial licensing and renewal of licenses for approximately 70 professions, including embalmers and funeral directors. There is a single full-time inspector/investigator within the Practitioner Investigations Unit who is assigned solely to the inspection of funeral homes and to the investigation of complaints against embalmers, funeral directors, and funeral homes.

For a period of time, there was no staff person specifically assigned to funeral home inspections/investigations due to the retirement in 1989 of the state's part-time funeral home inspector. However, in 2001, local police discovered five bodies that had been decomposing for more than three years in a funeral home garage. Two full-time inspectors were subsequently hired to fill investigator positions that had remained vacant for more than a decade.

The Legal Office Section has a half dozen attorneys who represent DPH in hearings for license revocation and other disciplinary matters for embalmers and funeral directors and the other approximately 70 professions. These staff present evidence to the Board for its decision.

Purpose, Powers, and Duties of Board and Department

The Board of Examiners of Embalmers and Funeral Directors is composed of five members appointed by the Governor. Three of the members must be actively licensed and practicing embalmers and two must be members of the public. Members may not have served as an officer of a related professional association for at least one year prior to his/her appointment.

By law, the Board of Examiners of Embalmers and Funeral Directors is charged with:

- hearing and deciding matters concerning suspension or revocation of licensure;
- adjudicating complaints filed against practitioners; and
- imposing sanctions where appropriate.

The Board also has the authority to enter into an agreement with another state to allow an embalmer or funeral director licensed there to become licensed in Connecticut without having to complete an apprenticeship in Connecticut.

The Board must meet at least once per calendar quarter. Any member not attending three meetings in a row, or at least half of all meetings in the calendar year, will be considered to have resigned and the governor contacted to appoint a replacement.

The Department of Public Health is responsible for:

- initial and renewal of licenses;
- inspection certificates of funeral homes;
- collecting money and handling paperwork;
- receiving and investigating all complaints and then deciding which are to be brought to the Board for consideration of disciplinary action;
- continuing education requirements; and
- adopting regulations for the purpose of carrying out the board's duties (with advice and consent from the Board).

Federal Regulation

In addition to state statutes and regulations, the industry must also abide by federal regulations. The Trade Regulation Rule of Funeral Industry Practices, 16 C.F.R. Part 453, of the *Federal Trade Commission*, commonly referred to as the "Funeral Rule," was adopted in 1982 and became fully effective in 1984. All funeral providers in the United States are required to follow the Funeral Rule and to comply with its preventive requirements in order to avoid unfair or deceptive acts or practices. The Funeral Rule requirements include:

- disclosing prices over the telephone and providing printed, itemized price lists for all merchandise and services offered
- all required disclosures provided in a clear and conspicuous manner

- funeral director to provide descriptions and prices of caskets prior to showing customer the caskets
- not providing embalming services without permission, and disclosing that embalming is not required for direct cremations nor by law except in certain special cases
- funeral provider retention of copies of price lists for at least one year after date last distributed to customers
- funeral provider may not refuse, or charge a fee, to handle a casket the customer bought elsewhere

Although the Federal Trade Commission (FTC) cannot resolve individual problems for consumers, it can act against a company if it sees a pattern of possible law violations. The Commission advises consumers to try to resolve problems concerning funeral matters with the funeral director or the state consumer protection agency. From 1984 through 1994, the FTC brought 43 enforcement actions against funeral homes for failing to comply with the Funeral Rule, and in subsequent years, conducted sweeps in which investigators posed as consumers, and test shopped funeral homes. In 2011, for example, funeral homes in Chicago and Washington, D.C. were charged with violating the FTC Funeral Rule following undercover inspections where FTC staff posed as consumer seeking to make funeral arrangements.

The federal *Occupational Safety and Health Administration* (OSHA) classifies morticians and their employees as healthcare workers and as such, are considered to be at occupational risk because they are exposed to blood-borne pathogens and certain body fluids. Blood-borne pathogens of greatest risk include hepatitis B (HBV) and human immunodeficiency virus (HIV). In addition to blood-borne pathogens, OSHA has standards applying to personal protective equipment, formaldehyde and hazardous chemicals.

Under the federal Clean Water Act, hazardous materials such as embalming fluid must be disposed of in compliance with guidelines, while emissions from crematories must meet standards established by the Clean Air Act.

How Profession is Regulated in Other States

PRI staff reviewed regulatory requirements and structures in all 50 states (and the District of Columbia). It found that:

- Approximately half the states have a single (combined) license for both embalmers and funeral directors
- Most embalmer and funeral director licenses require at least some college coursework
- Responsibility for regulating embalmers and funeral directors is most often found in the state's Department of Professional Regulation or in the Board of Embalmers and Funeral Directors (Figure II-2)
- Passage of the national exam is required in all but six states (88 percent), with 13 states requiring passage for embalmers, but not funeral directors
- At least 44 states (86%) have a board of funeral directors/embalmers

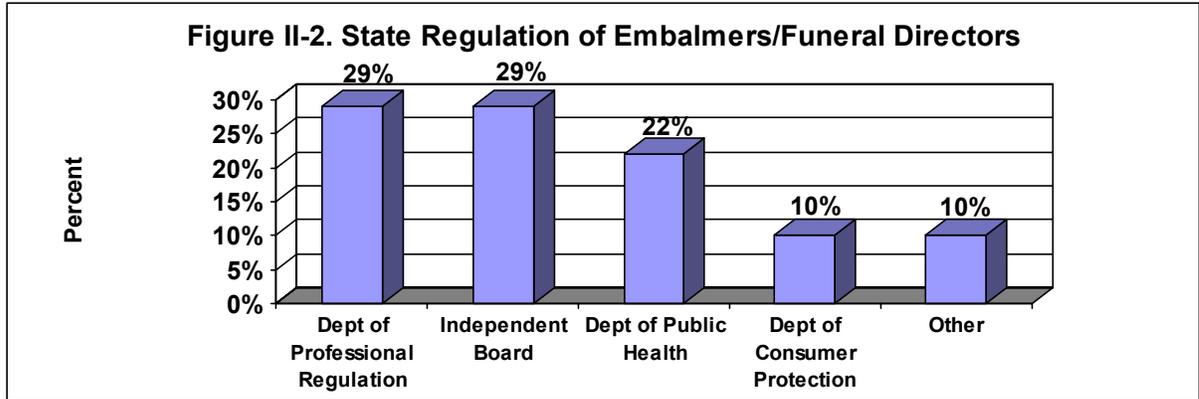


Table II-1 compares Connecticut with the other New England states.

State	Annual Hours of Continuing Educ.	Require National Exam Passage?	State Body with Licensing Responsibility	State Have a Funeral Board?
Connecticut	6 hrs per yr	Yes	public health department	Yes
Maine	12 hrs per 2 yrs	Yes	professional regulation department	Yes
Massachusetts	5 hrs per yr	Yes	consumer affairs department	Yes
New Hampshire	7 hrs per 2 yrs	Yes	public health agency	Yes
Rhode Island	5 hrs per yr	Yes	public health department	Yes
Vermont	20 hrs per 2 yrs	Yes	professional regulation department	Yes

Sources: International Conference of Funeral Service Examining Boards, National Funeral Directors Association.

As can be seen:

- Connecticut’s continuing education requirements fall within the 5-10 hour range found in New England states;
- all New England states require passage of the national board examination⁸ in order to become licensed; and
- like Connecticut, all the other New England states also have a board for embalmers and funeral directors.

⁸ The International Conference of Funeral Service Examining Boards develops, administers and provides score reporting services to the state licensure boards. The 340 exam items cover such topics as funeral service law and merchandising, sociology and psychology, embalming and restorative art.

Section III

Activities and Statistics Related to Embalmers, Funeral Directors and Funeral Homes

Board of Examiners of Embalmers and Funeral Directors

The Board of Examiners of Embalmers and Funeral Directors met at least once per quarter in FY 10, holding four meetings. The average number of board members present was 4.5 (90 percent attendance rate). In addition to board meetings, there is an average of two hearings per year.

As stated earlier, the Board of Examiners of Embalmers and Funeral Directors is charged with hearing and deciding matters concerning suspension or revocation of licensure, adjudicating complaints filed against practitioners, and imposing sanctions where appropriate. Table III-1 provides relevant annual statistics for calendar years 2009 and 2010. Two hearings were held in each of the last two years regarding charges filed against an embalmer and/or funeral home. While sanctioning can be imposed as a result of a hearing, it is more likely to occur as a result of a consent order approved by the board.

Table III-1. CYs 2009-2010 Statistics for Board of Examiners of Embalmers and Funeral Directors		
	2010 period of: Jan '10-Dec '10	2009 period of: Jan '09-Dec '09
<i>Regarding embalmers:</i>		
# of hearings held subsequent to the filing of charges against a licensed embalmer?	1	0
# of times sanctions were imposed on licensed embalmers ?	5	5
<i>Regarding funeral directors:</i>		
# of hearings held subsequent to the filing of charges against a licensed embalmer?	0	0
# of times sanctions were imposed on licensed funeral directors ?	1	0
<i>Regarding funeral homes:</i>		
# of hearings held subsequent to the filing of charges against a funeral home?	1	2
# of times sanctions were imposed on funeral homes ?	1	3
Source: Department of Public Health.		

Department of Public Health Inspections

DPH inspection of funeral homes. The Department of Public Health currently has a full-time health program associate who annually inspects funeral homes for certification and investigates complaints regarding embalmers, funeral directors and funeral homes. The onsite inspection of funeral homes (announced the day of the inspection) focuses on:

- Inspection of all facilities including general facilities (e.g., bathroom facilities, hot and cold water) and embalming and preparation facilities (e.g., approved method of sewage disposal, sufficient embalming instruments, fluids and disinfectants)
- Forms in use
- Pre-need funeral service contract and escrow accounts and agents

Complaints

Because the regulation of embalmers, funeral directors, and funeral homes entails public health as well as business practices, responsibility for handling complaints is divided among the Department of Public Health and the Department of Consumer Protection. A case involving a pre-need violation may be handled by both agencies, with DCP investigating the pre-need funeral contract violations, and DPH and the Board addressing reprimand and fining of the licensed embalmer/funeral director. Additionally, complaints may be submitted electronically to the Better Business Bureau. The Department of Public Health provides a link to access a printable complaint form that may be completed and mailed to DPH. Consumers are also given the option of contacting the DPH Practitioner Investigations Unit by telephone, email or fax.

DPH investigation of complaints. The Department of Public Health is mandated to investigate complaints against licensed individuals.⁹ Complaints may be received directly from consumers, as the result of a DPH inspection of a funeral home, or from another state agency such as DCP. The DPH Practitioner Investigations area investigates the complaints often using the inspector/investigator assigned full-time to the embalmer, funeral home and funeral director area.

After determining if the complaint issue(s) fall within the jurisdiction of the DPH Health Care Systems Branch, the complaint is prioritized by the Practitioner Investigations area as a Class 1, 2, or 3. Class 1 complaints require immediate action or response because the situation poses an immediate threat to public health and safety. Class 1 complaints include cases associated with patient death, practitioner impairment, sexual misconduct, or infection control issues. Class 2 complaints have direct or indirect impact on quality of care, quality of life, or public health and safety. Class 3 complaints

⁹ C.G.S. Sec. 19a-14 (10) (11)

appear to be violations of standards of practice, laws or regulations such as failure to release records, patient confidentiality, failure to complete physician profile, etc.

Since 2009 to the present, of the 69 complaints against embalmers, funeral directors, and funeral homes, there have been six Class 1 complaints, one Class 2 complaint, and 62 Class 3 complaints (see Figure III-1).

If, following the investigation, there is possible cause to suspect a violation has occurred, then the matter is referred to the DPH Legal Office. One of the prosecuting attorneys on staff determines if there is sufficient evidence of a violation and if so, will attempt to meet with the respondent in an office conference to resolve the matter. They will then either issue a statement of charges leading to a Board hearing for potential revocation of licensure or as is more often the case, negotiate a settlement and issue a consent order. If formal charges are filed, then the case is forwarded to the DPH Public Health Hearing Office. This office also acts as the liaison between DPH and the Board of Examiners of Embalmers and Funeral Directors.

The Board of Examiners of Embalmers and Funeral Directors must approve or reject the consent order. If the case goes to hearing, then the Board is the final arbiter. DPH provides consumers electronic access to a guide of the agency’s investigation and hearing process.¹⁰

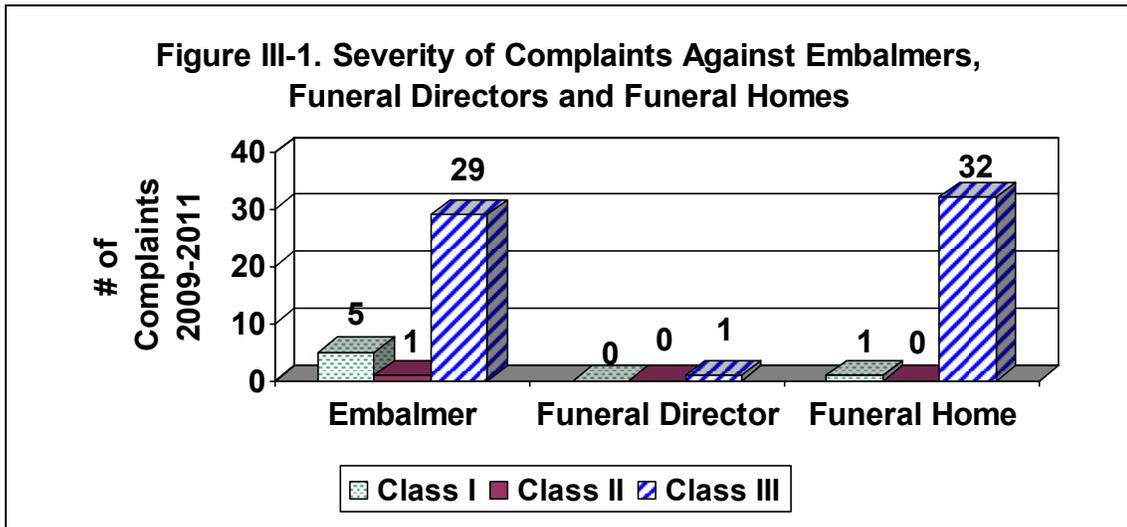
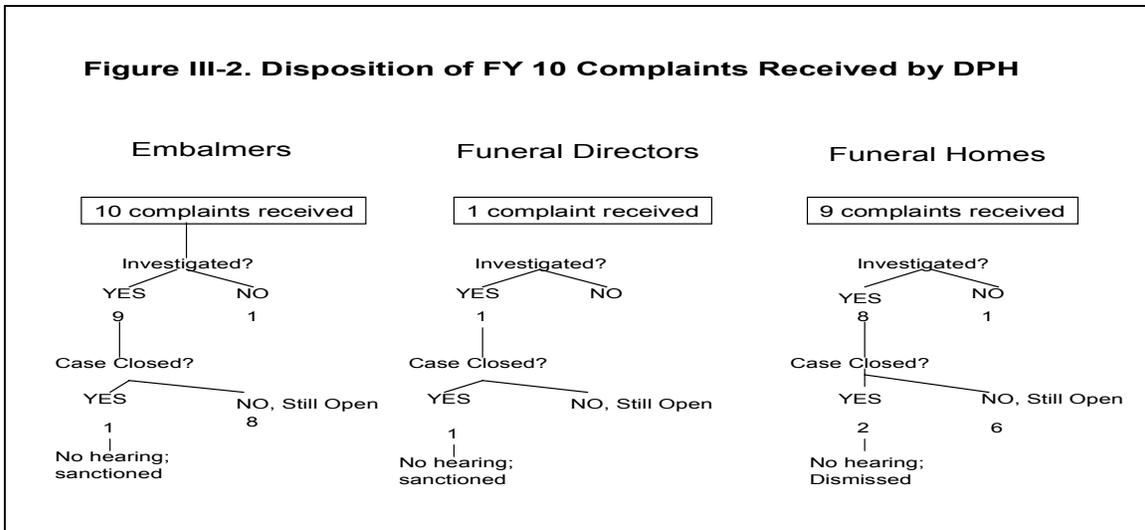


Figure III-2 provides information on complaints that were processed by DPH in FY 10. Although there are more complaints received for embalmers as compared with funeral directors, there are also many more licensed embalmers than funeral directors (828 vs. 59 in December 2010). Table III-2 shows some of the more recent complaints processed by DPH.

¹⁰ http://www.ct.gov/dph/lib/dph/facility_licensing_and_investigations/pdf/consumer_guide.pdf



Pre-need funeral contracts. In 1985, Connecticut passed a law allowing licensed embalmers and funeral directors to sell pre-need funeral contracts (P.A. 85-376). Contained within the Department of Consumer Protection section of the statutes (C.G.S. Sec. 42-200 et seq.), a pre-need funeral service contract is a legal agreement whereby the consumer pays for funeral services, property, and/or merchandise in advance of the time when it is actually needed. Pre-paid funeral contracts are either revocable (consumer can cancel the contract and get most of the money back) or irrevocable (contract cannot be canceled, although the contract may be transferred to another funeral home). The funds given to the funeral home (up to \$5,400 for irrevocable contracts, and unlimited for revocable contracts (unless the beneficiary is a Title XIX recipient)) must be put in a secure escrow account, with the account interest helping to fund the future need. The Chairman of the Board of Examiners of Embalmers and Funeral Directors estimates that there is currently approximately \$400 million invested in pre-paid accounts in Connecticut, and the popularity of these contracts is expected to grow significantly over the coming years.

DCP investigation of complaints. Under the Connecticut Unfair Trade Practices Act, the Department of Consumer Protection may investigate alleged violations such as inappropriate disposition of pre-need funeral contract funds paid by the consumer, and cancellation of funeral contracts. DCP handles complaints on a case-by-case basis and may issue cease and desist orders, order restitution, and enter into consent agreements.

Table III-3 provides information on complaints that were processed by DCP. Information was available for 11 closed complaints processed by DCP dating back to 2009. In four instances, pre-need funds were not deposited into escrow accounts, while two parties with pre-need contracts complained of overcharges. While four of the complaints came to the attention of DCP directly from the complainant, other avenues of complaint referral included DPH (3 complaints) and the Better Business Bureau (2 complaints).

Table III-2. Complaints Processed by DPH

Year Resolved, Type of Case	Issue	Outcome
Complaint #1 (2011)	Funeral home had unlicensed persons embalming human remains; exceeded the number of apprentice embalmers permitted; offered, sold and/or delivered goods and services not listed on the general price list; told families they would provide goods and/or services, that were not actually supplied; improper billing; submission of inaccurate death certificates; failure to obtain removal, transit and burial permits in a timely manner; and stole money and other valuables from homes of the deceased.	Embalmer voluntarily surrendered license; Superior Court judge sentenced embalmer to eight months in prison, and to pay almost \$63,000 in restitution to victims's families, and to state agencies he double-billed
Complaint #2 (2010) incompetence/ negligence	Funeral Director incorrectly identified remains, leading to embalming, preparing and casketing of the misidentified human remains; remains of one decedent incorrectly displayed at the wake; and remains of other decedent incorrectly cremated.	Funeral Director put on probation for 1 year, reprimanded, and fined \$2,000
Complaint #3 (2010) incompetence/ negligence	Embalmer failed to provide two families with itemized list of services and merchandise purchased and used; funeral home delayed burying cremains for more than 18 months in one case; and funeral home delayed installing grave markers for three years in one case.	Embalmer reprimanded and fined \$2,000
Complaint #4 (2010) illegal conduct; substance abuse/drug related	Embalmer has history of substance abuse, including the abuse of alcohol	Embalmer placed on probation for four years with requirements to receive therapy, urine screens, attend support group meetings
Complaint #5 (2009)	Embalmer entered into pre-need funeral service contracts but failed to appoint required escrow agent for each contract and deposit funds into escrow accounts	Embalmer's license revoked and fined \$20,000
Complaint #6 (2009) Scope of practice	Embalmer buried deceased prior to filing the death certificate and obtaining a burial, removal and transit permit	Embalmer reprimanded and fined \$2,000
Complaint #7 (2009) professional ethics	DPH investigator was inspecting funeral home and found remains had been refrigerated, and had not been wrapped, disinfected, or embalmed for at least five months; and delayed filing death certificate and securing removal, burial, and transit permit	Funeral home fined \$25,000 and licensed embalmer put on probation for 1 year
Complaint #8 (2008) Incompetence/ negligence	Embalmer cremated body prior to obtaining a cremation permit	Embalmer reprimanded, fined \$2,000, put on probation for 1 year
Source: DPH electronic license look-up (November 4, 2011).		

Table III-3. Complaints Processed by DCP

Year Received	Issue	Outcome	How Issue came to the attention of DCP
Complaint #1 (2011)	Failed to deposit pre-need funds (for 5 individuals in a family) into an escrow account as required by CGS Sec. 42-202	Funeral Director placed funds in escrow account (\$27,334)	Issue brought to the attention of DCP by DPH Practitioner Licensing and Investigations Section, who had been contacted by the financial organization responsible for the pre-need escrow accounts for the funeral home
Complaint #2 ((2010)	Individual had a pre-need funeral contract and was overcharged upon death/funeral of relative	Reimbursed \$483 to family	Issue brought directly to the attention of DCP by family
Complaint #3 (2010)	Widow of deceased dissatisfied with appearance/presentation of corpse, funeral service, prices for certain services	Funeral Home waived \$6,445 in charges to family	Issue brought to the attention of DCP by Funeral Home, who had been contacted by the Better Business Bureau
Complaint #4 (2009)	Failed to deposit pre-need funds (for 18 contracts purchased) into the required escrow accounts	Violations of pre-need contract requirements found in DPH hearing, resulted in reprimand, fine (\$5,000), 1 yr probation; restoration of all pre-need accounts occurred (\$41,442)	Issue brought to the attention of DCP by DPH, who had been contacted by a law firm who was having a problem obtaining documentation for pre-need funeral service contract escrow accounts from a funeral home/embalmer
Complaint #5 (2009)	Failed to deposit pre-need funds (for 4 contracts purchased) into escrow accounts; destroyed pre-need funeral contract files/failed to maintain records	Violations of pre-need contract requirements found, consent order resulted in \$20,000 fine, license suspension followed by probationary period; restoration of all pre-need accounts occurred (\$23,225)	Issue brought to the attention of DCP by DPH
Complaint #6 (2011)	Individual reported that a funeral director was a convicted felon	DPH was aware of felony and believed it would not interfere with his ability to perform funeral director function; complaint dismissed	Issue brought to the attention of DCP by individual; DCP referred complaint to DPH due to the nature of the complaint falling under the jurisdiction of DPH

Year Received	Issue	Outcome	How Issue came to the attention of DCP
Complaint #7 (2011)	Individual reported substantially higher prices at a funeral home compared to other funeral homes in the area	Because no transaction occurred (the individual ended up using a different funeral home), case was dismissed—however, in reviewing the funeral home price list, investigator noticed fee for credit card use, which is not permitted—DCP will look into	Issue brought directly to the attention of DCP by individual
Complaint #8 (2010)	Individual complained of harassment by a funeral home over balance of funeral bill for his mother	DCP found no pattern of business activities by the funeral home that would indicate a need for formal investigation; DCP closed case	Issue brought directly to the attention of DCP by individual
Complaint #9 (2009)	A funeral home that held a pre-need contract went out of business as a result of having dead bodies in his garage, embalmer/owner subsequently died, and the family was having difficulty getting their money back (\$3,600)	Because too much time had passed, DCP was unable to get the money back	Issue brought to the attention of DCP by U.S. Senator Dodd, who was contacted by the family
Complaint #10 (2009)	Deceased individual had a pre-need funeral contract; family member complained he did not receive itemized bill, and was charged additional fees	DCP investigated and found no pattern of complaint or misrepresentation; family sent complete accounting of funeral expenses, case closed	Issue brought to the attention of DCP by the Better Business Bureau, who was contacted by the family
Complaint #11 (2010)	Individual complained that funeral home was using misleading advertising	DCP investigated the funeral home and mediated a resolution whereby the home voluntarily corrected its misleading advertising	Issue brought to the attention of DCP by individual who initially complained to the Board of Examiners of Embalmers and Funeral Directors, and was subsequently redirected to DCP due to the business practice nature of the complaint

Source: DCP Trade Practices Division.

APPENDICES

APPENDIX A

TITLE 2c REVIEW AND TERMINATION OF GOVERNMENTAL ENTITIES AND PROGRAMS

CHAPTER 28

CONNECTICUT SUNSET LAW

Sec. 2c-1. Legislative finding. The General Assembly finds that there has been a proliferation of governmental entities and programs, and that this proliferation has occurred without sufficient legislative oversight or regulatory accountability. The General Assembly further finds that there is a need for periodic comprehensive review of certain entities and programs, and for the termination or modification of those which do not significantly benefit the public health, safety or welfare.

Secs. 2c-2 and 2c-2a. Governmental entities and programs terminated on July 1, 1981; July 1, 1982; July 1, 1983; July 1, 1984; July 1, 1985; July 1, 1986; July 1, 1987, and July 1, 1988. Termination of ombudsmen office under sunset law. Sections 2c-2 and 2c-2a are repealed.

Sec. 2c-2b. Governmental entities and programs terminated on July 1, 2013; July 1, 2014; July 1, 2015; July 1, 2016; and July 1, 2017. (a) The following governmental entities and programs are terminated, effective July 1, 2013, unless reestablished in accordance with the provisions of section 2c-10:

- (1) Regulation of hearing aid dealers pursuant to chapter 398;
- (2) Repealed by P.A. 99-102, S. 51;
- (3) Connecticut Homeopathic Medical Examining Board, established under section 20-8;
- (4) State Board of Natureopathic Examiners, established under section 20-35;
- (5) Board of Examiners of Electrologists, established under section 20-268;
- (6) Connecticut State Board of Examiners for Nursing, established under section 20-88;
- (7) Connecticut Board of Veterinary Medicine, established under section 20-196;
- (8) Liquor Control Commission, established under section 30-2;
- (9) Connecticut State Board of Examiners for Optometrists, established under section 20-128a;
- (10) Board of Examiners of Psychologists, established under section 20-186;
- (11) Regulation of speech and language pathologists pursuant to chapter 399;
- (12) Connecticut Examining Board for Barbers and Hairdressers and Cosmeticians established under section 20-235a;
- (13) Board of Examiners of Embalmers and Funeral Directors established under section 20-208;
- (14) Regulation of nursing home administrators pursuant to chapter 368v;
- (15) Board of Examiners for Opticians established under section 20-139a;
- (16) Medical Examining Board established under section 20-8a;

- (17) Board of Examiners in Podiatry, established under section 20-51;
- (18) Board of Chiropractic Examiners, established under section 20-25;
- (19) The agricultural lands preservation program, established under section 22-26cc;
- (20) Nursing Home Ombudsmen Office, established under section 17a-405;
- (21) Mobile Manufactured Home Advisory Council established under section 21-84a;
- (22) Repealed by P.A. 93-262, S. 86, 87;
- (23) The Child Day Care Council established under section 17b-748;
- (24) The Connecticut Advisory Commission on Intergovernmental Relations established under section 2-79a;
- (25) The Commission on Children established under section 46a-126;
- (26) The task force on the development of incentives for conserving energy in state buildings established under section 16a-39b;
- (27) Repealed by P.A. 10-106, S. 16;
- (28) The State Dental Commission, established under section 20-103a;
- (29) The Connecticut Economic Information Steering Committee, established under section 32-6i;
- (30) Repealed by P.A. 95-257, S. 57, 58;
- (31) Repealed by P.A. 10-93, S. 12; and
- (32) Regulation of audiologists under sections 20-395a to 20-395g, inclusive.

(b) The following governmental entities and programs are terminated, effective July 1, 2014, unless reestablished in accordance with the provisions of section 2c-10:

- (1) Program of regulation of sanitarians, established under chapter 395;
- (2) Program of regulation of subsurface sewage disposal system installers and cleaners, established under chapter 393a;
- (3) Program of regulation of bedding and upholstered furniture established by sections 21a-231 to 21a-236, inclusive;
- (4) Regional mental health boards, established under section 17a-484;
- (5) Repealed by P.A. 88-285, S. 34, 35;
- (6) All advisory boards for state hospitals and facilities, established under section 17a-470;
- (7) Repealed by P.A. 85-613, S. 153, 154;
- (8) State Board of Examiners for Physical Therapists, established under section 20-67;
- (9) Commission on Medicolegal Investigations, established under subsection (a) of section 19a-401;
- (10) Board of Mental Health and Addiction Services, established under section 17a-456;
- (11) Repealed by P.A. 95-257, S. 57, 58;
- (12) Commission on Prison and Jail Overcrowding established under section 18-87j; and
- (13) The residential energy conservation service program authorized under sections 16a-45a, 16a-46 and 16a-46a.

(c) The following governmental entities and programs are terminated, effective July 1, 2015, unless reestablished in accordance with the provisions of section 2c-10:

- (1) Board of Firearms Permit Examiners, established under section 29-32b;

- (2) State Board of Landscape Architects, established under section 20-368;
- (3) Repealed by P.A. 89-364, S. 6, 7;
- (4) Police Officer Standards and Training Council, established under section 7-294b;
- (5) State Board of Examiners for Professional Engineers and Land Surveyors, established under section 20-300;
- (6) State boards for occupational licensing, established under section 20-331;
- (7) Commission of Pharmacy, established under section 20-572;
- (8) Connecticut Real Estate Commission, established under section 20-311a;
- (9) State Codes and Standards Committee, established under section 29-251;
- (10) Commission on Fire Prevention and Control, established under section 7-323k;
- (11) Program of regulation of building demolition, established under section 29-401;
- (12) Repealed by P.A. 93-262, S. 86, 87 and P.A. 93-423, S. 7; and
- (13) Connecticut Food Policy Council, established under section 22-456.

(d) The following governmental entities and programs are terminated, effective July 1, 2016, unless reestablished in accordance with the provisions of section 2c-10:

- (1) State Insurance and Risk Management Board, established under section 4a-19;
- (2) Connecticut Marketing Authority, established under section 22-63;
- (3) Occupational Safety and Health Review Commission, established under section 31-376;
- (4) Connecticut Siting Council, established under section 16-50j;
- (5) Connecticut Public Transportation Commission, established under section 13b-11a;
- (6) State Board of Accountancy, established under section 20-280;
- (7) Repealed by P.A. 99-73, S. 10;
- (8) Repealed by P.A. 85-613, S. 153, 154;
- (9) State Milk Regulation Board, established under section 22-131;
- (10) Deleted by P.A. 99-73, S. 1;
- (11) Council on Environmental Quality, established under section 22a-11;
- (12) Repealed by P.A. 85-613, S. 153, 154;
- (13) Repealed by P.A. 83-487, S. 32, 33;
- (14) Employment Security Board of Review, established under section 31-237c;
- (15) Repealed by P.A. 85-613, S. 153, 154;
- (16) Connecticut Energy Advisory Board, established under section 16a-3;
- (17) Connecticut Solid Waste Management Advisory Council, established under subsection (a) of section 22a-279;
- (18) Investment Advisory Council, established under section 3-13b;
- (19) State Properties Review Board, established under subsection (a) of section 4b-3;
- (20) Commission on Human Rights and Opportunities, established under section 46a-52;
- (21) The coastal management program, established under chapter 444;
- (22) Repealed by P.A. 09-234, S. 15;
- (23) Family support grant program of the Department of Social Services, established under section 17b-616;
- (24) Program of regulation of occupational therapists, established under chapter 376a;
- (25) Repealed by P.A. 85-613, S. 153, 154;
- (26) Architectural Licensing Board, established under section 20-289;

- (27) Repealed by June Sp. Sess. P.A. 01-5, S. 17, 18; and
(28) The Connecticut Transportation Strategy Board.

(e) The following governmental entities and programs are terminated, effective July 1, 2017, unless reestablished in accordance with the provisions of section 2c-10:

- (1) Regional advisory councils for children and youth center facilities, established under section 17a-30;
(2) Repealed by P.A. 93-262, S. 86, 87;
(3) Advisory Council on Children and Families, established under section 17a-4;
(4) Board of Education and Services for the Blind, established under section 10-293;
(5) Repealed by P.A. 84-361, S. 6, 7;
(6) Commission on the Deaf and Hearing Impaired, established under section 46a-27;
(7) Advisory and planning councils for regional centers for the mentally retarded, established under section 17a-273;
(8) Repealed by P.A. 01-141, S. 15, 16;
(9) Repealed by P.A. 94-245, S. 45, 46;
(10) Repealed by P.A. 85-613, S. 153, 154;
(11) State Library Board, established under section 11-1;
(12) Advisory Council for Special Education, established under section 10-76i;
(13) Repealed by June 30 Sp. Sess. P.A. 03-6, S. 248;
(14) Repealed by June 30 Sp. Sess. P.A. 03-6, S. 248;
(15) Repealed by P.A. 89-362, S. 4, 5;
(16) Repealed by June Sp. Sess. P.A. 91-14, S. 28, 30;
(17) Repealed by P.A. 90-230, S. 100, 101;
(18) State Commission on Capitol Preservation and Restoration, established under section 4b-60;
(19) Repealed by P.A. 90-230, S. 100, 101; and
(20) Examining Board for Crane Operators, established under section 29-222.

Secs. 2c-2c to 2c-2g. Termination under sunset law of: Mobile and Manufactured Home Advisory Council; Human Resources Advisory Council and human services area advisory councils; Child Day Care Council; Advisory Commission on Intergovernmental Relations; Dental Commission. Sections 2c-2c to 2c-2g, inclusive, are repealed.

Sec. 2c-3. Performance audits by Legislative Program Review and Investigations Committee. The Legislative Program Review and Investigations Committee, established by the provisions of section 2-53e, shall conduct a performance audit of each governmental entity and program scheduled for termination under section 2c-2b. The Legislative Program Review and Investigations Committee shall complete its performance audit by January first of the year in which the governmental entity and program are scheduled for termination under section 2c-2b. In conducting the audit, the committee shall take into consideration, but not be limited to considering, the factors set forth in sections 2c-7 and 2c-8. The entities enumerated in section 2c-2b shall cooperate with the Legislative Program Review and Investigations Committee in carrying out the

purposes of sections 2c-1 to 2c-12, inclusive, and shall provide such information, books, records and documents as said committee may require to conduct its performance audit. Each governmental entity or program scheduled for termination pursuant to section 2c-2b shall provide at the request of the Program Review and Investigations Committee an analysis of its activities which specifically addresses the factors enumerated in sections 2c-7 and 2c-8.

Sec. 2c-4. Report to General Assembly. The Legislative Program Review and Investigations Committee shall submit to the General Assembly a written report on each governmental entity and program by January first of the year in which such entity and program are scheduled for termination. Such report shall specifically address the factors set forth in sections 2c-7 and 2c-8 and shall include recommendations regarding the abolition, reestablishment, modification or consolidation of such entity and program. On and after October 1, 1996, the report shall be submitted to the joint standing committee of the General Assembly having cognizance of matters relating to state government organization and reorganization, structures and procedures, to any other joint standing committee of the General Assembly having cognizance and, upon request, to any member of the General Assembly. A summary of the report shall be submitted to each member of the General Assembly if the summary is two pages or less and a notification of the report shall be submitted to each member if the summary is more than two pages. Submission shall be by mailing the report, summary or notification to the legislative address of each member of the committees or the General Assembly, as applicable.

Sec. 2c-5. Committee to hold hearing prior to termination or reestablishment of governmental entity. Prior to the termination, modification, consolidation or reestablishment of any governmental entity or program, the joint standing committee of the General Assembly having cognizance of matters relating to government administration, organization and reorganization shall hold a public hearing, receiving testimony from the public and the governmental entity involved.

Sec. 2c-6. Governmental entity to demonstrate public need. Recommendations by committee. Each governmental entity enumerated in section 2c-2b shall have the burden of demonstrating a public need for the reestablishment of the entity or program. Each such entity shall also have the burden of demonstrating that it has served the public interest and not merely the interests of the persons regulated. The joint standing committee of the General Assembly having cognizance of matters relating to government administration, organization and reorganization may recommend to the General Assembly that the governmental entity or program be modified, consolidated with another entity or program or reestablished.

Sec. 2c-7. Criteria for determining public need. In determining whether there is a public need for the continued existence of an entity or program, the General Assembly shall consider, among other things:

(a) Whether termination of the entity or program would significantly endanger the public health, safety or welfare;

- (b) Whether the public could be adequately protected by another statute, entity or program, or by a less restrictive method of regulation;
- (c) Whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services, and if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost, and
- (d) Whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations or policies, including budgetary and personnel policies.

Sec. 2c-8. Criteria for determining whether a regulatory entity or program has served the general public. In determining whether a regulatory entity or program has served the general public, and not merely the persons regulated, the General Assembly shall consider, among other things:

- (a) The extent to which qualified applicants have been permitted to engage in any profession, occupation, trade or activity regulated by the entity or program;
- (b) The extent to which the governmental entity involved has complied with federal and state affirmative action requirements;
- (c) The extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated;
- (d) The extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies, and
- (e) The manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to regulation.

Sec. 2c-9. Terminated entity or program to continue for one year for purpose of concluding its affairs. Upon termination, a governmental entity or program listed in section 2c-2b shall continue in existence for one year for the purpose of concluding its affairs. During the one-year period, termination shall not reduce the powers or authority of the entity or program. Upon the expiration of the one-year period, the entity or program shall cease all activities; all regulations promulgated by the entity or pursuant to the program shall cease to exist, and all unexpended balances of appropriations or other funds shall revert to the fund from which they were appropriated, or if that fund is abolished, to the General Fund.

Sec. 2c-10. Reestablishment of entity or program by General Assembly. Any governmental entity or program scheduled for termination under section 2c-2b may be reestablished by the General Assembly for periods not to exceed five years, at the end of which the entity or program shall again be subject to review under the provisions of sections 2c-1 to 2c-12, inclusive. Any such reenactment may provide for the consolidation of governmental entities or programs or for the transfer of governmental functions from one entity or program to another.

Sec. 2c-11. Termination of entity not to affect any claim, right or cause of action. Termination of a governmental entity or program shall not affect any claim, right or cause of action by or against the entity or program. Any such claim, right or cause of action pending on the date the entity or program is terminated, or instituted thereafter, shall be prosecuted or defended in the name of the state by the Attorney General.

Sec. 2c-12. Early termination of entity or program, other legislation, not prohibited. Nothing in this section or in sections 2c-1 to 2c-11, inclusive, shall prohibit the General Assembly from terminating a governmental entity or program prior to the termination date established in section 2c-2b or from considering any other legislation concerning any such entity or program.

Secs. 2c-13 to 2c-20. Reserved for future use.

Appendix B
Recommendations from 1980 Sunset Review of Board of Examiners of
Embalmers and Funeral Directors

1. Continue licensure for funeral directors and embalmers.

Licensure has been found to be the most appropriate and necessary level of regulation for these occupations.

2. Registration of student embalmers and student funeral directors.

The Committee recommends retention of registration according to a definition which is less restrictive and provides the minimum level of necessary regulation.

According to this definition, registration requires practice of a profession by registered persons only. However, registration places no conditions or other qualifications upon entry into the profession other than a required filing statement and any inspection necessary for protecting the public's health and safety. Current entry requirements for student embalmers and directors would be repealed. In addition, an individual may be removed from a registration list by the Department of Consumer Protection for any unauthorized practice. Registration will ensure that the student receives proper recognition and credit for his or her period of training.

3. Register funeral home with required initial inspection.

To clarify terminology and consistently apply the various regulatory levels, the Committee recommends that establishments such as funeral homes be registered. The public is protected adequately under this regulatory mechanism since funeral home which fail to meet or maintain established health and safety standards can be prohibited from operating.

4. Terminate the Board of Examiners of Embalmers and Funeral Directors and transfer regulatory authority to the Department of Consumer Protection.

The regulation of funeral practices is a consumer rather than a health related function. The Legislative Program Review and Investigations Committee found that this board and the Department of Health Services' duties can be assumed by the Department of Consumer Protection, the more appropriate state agency. Distinct boards have been retained for those health professions where expertise and peer review is essential in the entry and enforcement aspects of regulation. The Department of Consumer Protection has established procedures for handling consumer complaints and enforcement of business practices. The Department is capable of soliciting professional input when necessary.

5. The Department of Consumer Protection should consider the proposed Model Legislation in the regulation of embalmers and funeral directors.

Transferring regulatory authority from the board and the Department of Health Services to the Department of Consumer Protection does not allow for the application of the proposed Model Legislation. However, the spirit and intent of those sections of the Model Legislation dealing with due process, occupational input, entry requirements, renewal standards, complaint procedures and disciplinary sanctions are recommended for adoption by the Department of Consumer Protection.

6. Retain statutes on price and information disclosure and include non-compliance as grounds for disciplinary action.

Public Act 77-219, "An act requiring funeral homes to provide price lists of services offered," establishes procedures for the selling of funeral services. The law was passed in response to consumer complaints concerning abuses within the funeral industry. The Department of Consumer Protection is capable of effectively enforcing the provisions of this statute.

APPENDIX C

Responses to the 2011 Sunset Questionnaire on the Board of Examiners of Embalmers and Funeral Directors

1. WOULD THE TERMINATION OF THE BOARD OF EXAMINERS OF EMBALMERS AND FUNERAL DIRECTORS (BOARD) SIGNIFICANTLY ENDANGER PUBLIC HEALTH, SAFETY, OR WELFARE? PLEASE EXPLAIN.

From Board:

- Yes, there must be a board comprised of professionals that understand the goings on of the profession
- The professional member can immediately recognize the need for action
- If a situation cannot be recognized by a layman, yes, an impact would be created to endanger the health, welfare and safety of the people

From DPH:

- DPH currently regulates over 70 categories of health and health related professional license types and several categories of health and health related facilities/agencies
- Only a small number of these professions have a Board such as the Board of Examiners of Embalmers and Funeral Directors
- For the more than 50 categories of health profession license types with no Board or Commission, DPH successfully performs all respective activities handled by a Board or Commission

2. COULD THE PUBLIC BE ADEQUATELY PROTECTED BY ANOTHER STATUTE, OFFICE, OR PROGRAM, OR BY A LESS RESTRICTIVE METHOD OF REGULATION SUCH AS ABSENCE OF THE BOARD? PLEASE EXPLAIN.

From Board:

- No, the public cannot be adequately protected by another state statute, office, or program
- What currently is in place with DPH is fine
- There needs to be oversight of the approximately \$400 million in pre-need funeral trusts and insurance
 - Connecticut is not checking the four major trust companies and their records
- Consider two licenses for the profession (from DPH and DCP)

From DPH:

- The Department of Consumer Protection currently has statutory oversight of pre-need funeral service contracts
- DPH currently regulates over 70 categories of health and health related professional license types and several categories of health and health related facilities/agencies
- Only a small number of these professions have a Board such as the Board of Examiners of Embalmers and Funeral Directors

- For the more than 50 categories of health profession license types with no Board or Commission, DPH successfully performs all respective activities handled by a Board or Commission

3. DOES THE BOARD HAVE THE EFFECT OF INCREASING THE COSTS OF GOODS OR SERVICES TO THE PUBLIC EITHER DIRECTLY OR INDIRECTLY? PLEASE EXPLAIN THE BASIS FOR YOUR ANSWER.

From Board:

- No, the fee structure for the licensing of the individual embalmer is under \$200 per year and \$300 for funeral homes
- The Board does not have an impact on increasing the costs to the general public

From DPH:

- DPH does not maintain statistics regarding the costs of goods and services to the public
- DPH does not have any data to demonstrate the effect that the Board has on the costs of goods or services to the public
- Board members are volunteers and there is no reimbursement associated with their activities
- DPH staff provides administrative and legal support to the Board since the Board has no budget

4. IS THE EFFECTIVENESS OF THE BOARD'S OPERATION IMPEDED BY EXISTING STATUTES, REGULATIONS OR POLICIES, INCLUDING BUDGETARY AND PERSONNEL POLICIES? IF SO, PLEASE BE SPECIFIC IN YOUR ANSWER.

From Board:

- No, however, we find that we are hearing matters that occurred a year or two years ago
- Some of the issues presented to the Dept. of Health cannot get settled or heard in a timely manner because of the many matters that fall under the DPH umbrella
 - If directed straight to the Board, or a request to go before the Board would move matters faster, then it should be considered a method to dispense with issues in a more timely method

From DPH:

- DPH is meeting its statutory mandates related to licensing and investigations as well as adjudication of complaints and inspections related to funeral homes
- Limited resources impacts the Department's ability to be more proactive in its enforcement activities (e.g., the investigation process is complaint driven) and in educating the public/consumers and license holders about current laws and regulations and the nature of our work as well as the work of the Board

5. WOULD THE TERMINATION OF LICENSING REQUIREMENTS FOR EMBALMERS AND FUNERAL DIRECTORS SIGNIFICANTLY ENDANGER PUBLIC HEALTH, SAFETY, OR WELFARE? PLEASE EXPLAIN.

From Board:

- Yes, those not professionally schooled would enter the profession
- Those whose licenses were revoked would be able to come back into the profession
- The statutes that require only a licensed embalmer/funeral director to act would be eliminated from the books, such as:
 - transferring the dead
 - signing a death certificate
 - meeting hospital and cemetery requirements of only a licensed person transferring/burying a body
 - only licensed funeral directors entering into preneed/prefunded contracts
- How would an agency have jurisdiction over a non licensed person? There would be no authority in place

From DPH:

- Current licensure requirements protect the public by ensuring that all embalmers and funeral directors adhere to the same minimum standards with regard to education, training and maintenance of competence
- Other related requirements such as standards regarding pre-need funeral service contracts ensure that consumers are protected and professional standards such as requirements related to the proper handling and storage of bodies provide additional protection for the public
- During each of the last 3 years, DPH has investigated an average of 8 complaints filed by the public or that arose from a funeral home inspection/investigation against licensed embalmers and 1 complaint against licensed funeral directors
 - Most of these complaints were related to issues surrounding pre-need funeral service contracts, compliance with administrative laws and regulations such as the availability of price lists, filing paperwork such as burial, removal and transit permits in a timely fashion and making timely arrangements for families
 - Our investigative efforts have focused primarily in the domain of consumer protection rather than public health and safety
 - The funeral home inspection process is focused primarily on the evaluation of sanitary conditions in the funeral homes

6. COULD THE PUBLIC BE ADEQUATELY PROTECTED BY A LESS RESTRICTIVE METHOD OF REGULATION THAN THE CURRENT EMBALMERS AND FUNERAL DIRECTORS LICENSING REQUIREMENTS, SUCH AS CERTIFICATION OR REGISTRATION? PLEASE EXPLAIN.

From Board:

- The vehicle called regulation mandates the individual to successfully complete and pass and prescribed course of instruction as well as knowing that their compliance is necessary since they are a member of a regulated profession
- The profession is also regulated by the federal government (OSHA and Federal Trade Commission)

From DPH:

- A certification or registration program would have similar outcomes and would provide a comparable level of public protection
- The current licensure process is not onerous and because the investigation process is complaint driven, minimal resources are necessary to maintain this program

7. DOES THE LICENSING OF EMBALMERS AND FUNERAL DIRECTORS HAVE THE EFFECT OF INCREASING THE COSTS OF GOODS OR SERVICES TO THE PUBLIC EITHER DIRECTLY OR INDIRECTLY? PLEASE EXPLAIN THE BASIS FOR YOUR ANSWER.

From Board:

- No, licensing does not directly have any impact on the public
- It is the case that, a person licensed in this field has completed a required course of instruction which like any other college has a debt service, and should expect compensation reflective of this effort and expense
 - This is similar to many other licensed professions

From DPH:

- DPH does not maintain statistics regarding the costs of goods and services to the public
- DPH does not have any data to demonstrate the effect that licensing has on the costs of goods or services to the public

8. IF THE LICENSING OF EMBALMERS AND FUNERAL DIRECTORS HAS THE EFFECT OF INCREASING COSTS, DO BENEFITS TO THE PUBLIC OUTWEIGH THIS ADDITIONAL COST? PLEASE EXPLAIN.

From Board:

- Yes, the benefits outweigh any additional cost if any
- The public is working with an individual who has been trained, examined and licensed in the profession and now meets the required high standards of the profession

9. TO WHAT EXTENT HAVE QUALIFIED APPLICANTS BEEN PERMITTED TO ENGAGE IN THE PROFESSIONS LICENSED BY THE BOARD? PLEASE COMMENT ON WAITING PERIODS, DELAYS, PAPERWORK, ETC.

From Board:

- Qualified applicants have been given the right to practice alongside the older professions
- Once an individual has met the criteria, including waiting periods, DPH processes paperwork move in a most acceptable fashion without delay

From DPH:

- Once an applicant has filed the necessary application form and required fees and all supporting documents have been received, a determination is made as to whether the applicant has met the licensing requirements
- If determined to have met the licensing requirements, the applicant is scheduled for the practical licensing examination that is administered by a licensed embalmer under the direction of the Department of Public Health and the Board
- Practical examinations are administered as frequently as necessary because it is a one-on-one evaluation of a candidate's competency
- Upon successful completion of the practical examination, the license is issued
- Prior to becoming eligible for licensure, embalmer applicants are issued an apprentice permit that authorizes them to obtain the required practical experience under the supervision of a licensed embalmer and until they have successfully passed the licensing examination
- There have been no substantial waiting periods and delays in the issuance of licenses or permits to these applicants

10. WHAT ACTIONS HAS THE BOARD TAKEN TO INSURE COMPLIANCE WITH FEDERAL AND STATE AFFIRMATIVE ACTION REQUIREMENTS? ARE THERE POLICIES TO ENCOURAGE ACCESS BY WOMEN AND MINORITIES INTO THE EMBALMER AND FUNERAL DIRECTOR PROFESSIONS?

From Board:

- The Board itself will stress compliance with the federal and state rules and regulations (affirmative action and other requirements)

From DPH:

- All applicants who meet the statutory requirements are eligible and receive a license
- The licensing section does not recruit individuals to apply for licensure or to engage in any profession

11. WITHIN THE PAST FIVE YEARS, WHAT CHANGES IN STATUTE, RULES OR REGULATIONS HAS THE BOARD PROPOSED OR ADVOCATED FOR THAT WOULD BENEFIT THE PUBLIC AS OPPOSED TO LICENSEES, INCLUDING PREVENTING THE LICENSURE OF UNQUALIFIED PERSONS?

From Board:

- The Board has been strong advocates for raising the bar
- Made continuing education requirements mandatory, making sure the course content is consistent with recommendations of the Academy of Funeral Services

- For example, it is now mandatory that 2 hours of each year of continuing education be dedicated to state law and/or OSHA rules and regulations
- The Board has also pursued the suspension and revocation of individual and or funeral home licenses after hearing discovered improprieties that warrant strong disciplinary action

From DPH:

- Existing statutory provisions allow the Department to take action against individuals who are found to have been practicing this profession without a license
- DPH has not proposed any additional changes to the statutes or regulations governing the licensure or investigation activities related to this profession

12. WHAT HAS THE BOARD/AGENCY DONE TO ENCOURAGE PUBLIC PARTICIPATION IN THE FORMULATION OF THE BOARD'S REGULATIONS AND POLICIES?

From Board:

- The Board presently has two board members referred to as public members (non-licensed embalmers/funeral directors)
- The Board also works with the independent funeral consumer groups to help establish a good relationship and give the necessary weight to issues they may discuss with us affecting the public or the public's misconceptions

From DPH:

- DPH has not developed any new policies or regulations regarding this profession
- However, at any time regulatory changes are proposed, DPH solicits feedback from interested stakeholders including but not limited to the Board, regulated professionals and their membership organizations as well as the public

13. WHAT HAS BEEN THE PROCESS USED BY THE BOARD/AGENCY TO RESOLVE PUBLIC COMPLAINTS CONCERNING EMBALMERS, FUNERAL DIRECTORS AND FUNERAL HOMES?

From Board:

- The process has been one of in-house handling of matters with the respondent.
 - However, there are times when the Board is asked after many months or even years to listen to a case and conduct a hearing
 - Some of the delay is due to the ongoing investigative work which occurs before the case comes before the Board
 - Other times, the Board is asked to agree with the parties on a settlement between the Department of Public Health and the individual
- Some matters could be handled directly by the Board in an effort to resolve issues in a hopefully amicable and more timely fashion

From DPH:

- Pursuant to Section 19a-14 of the General Statutes, DPH investigates public complaints concerning licensed embalmers and funeral directors who are alleged to have violated the laws, regulations and standards governing the profession. As part of the investigative process, DPH investigators communicate with the petitioner, obtain records and other pertinent documents, ask the respondent licensee to provide a response to the allegations and seek expert consultant opinions when necessary. If it is determined that the respondent has violated the standards of the profession or the standards of care, or violated other laws or regulations governing the profession, the Department pursues a disciplinary action.

14. HOW WELL WOULD YOU SAY THE BOARD OF EXAMINERS OF EMBALMERS AND FUNERAL DIRECTORS IS PERFORMING? PLEASE EXPLAIN.

From Board:

- In an excellent manner
- The Board is knowledgeable about the funeral service personnel
- The DPH also contributes to the high regard in our state and many states around us
- This Board as many boards does not take their charge lightly and is in place to ensure the health, safety and welfare to the citizens of our state and to the funeral profession

From DPH:

- The Board can only adjudicate complaints that are brought from the Department upon conclusion of an investigation
- These statistics fail to consider the number of complaints received and investigated that do not go before the Board or result in disciplinary action
- An absence of complaints and low disciplinary statistics could also demonstrate that a program is performing well
- Although statistics concerning the number of disciplinary actions against license holders in a particular profession are relevant to the discussion, they may not be the most effective measure of the success of a Board without taking other factors into consideration

15. WHAT COULD THE BOARD OF EXAMINERS OF EMBALMERS AND FUNERAL DIRECTORS DO TO PERFORM EVEN BETTER?

From Board:

- Not any easy question. The Board handles matters of concern that are presented to us by the Department and in our open forum during the first thirty minutes of our Board meetings
- We are delivering what the Department needs to know as well as our peers and general public

From DPH:

- The Board and DPH could engage in educational campaigns with the public and license holders regarding licensing requirements, how/when to contact the Department to file a complaint and the respective roles of the Board and DPH

16. HOW WELL WOULD YOU SAY DPH IS DOING IN THEIR ROLE OF REGULATING EMBALMERS AND FUNERAL DIRECTORS? PLEASE EXPLAIN.

From Board:

- DPH is handling matters of funeral service in an exceptional manner
- Considering the personnel, we cannot ask or expect anymore
- The public health facet is being handled well. The complaints are being handled and the funeral homes are being inspected
- The greatest concern now is for oversight of preneed/prefunding of funeral contracts
 - While DPH does a wonderful job protecting public health, now is the time for another agency to get involved in assuring citizens that the money is and will be there for their needs in days and years to come

From DPH:

- DPH is meeting its statutory mandates related to licensing and investigations as well as adjudication of complaints
- The investigation process is complaint driven and the number of complaints DPH receives regarding this profession is relatively small
- These statistics also fail to consider the number of applications received and licenses granted as well as complaints received and investigated that do not result in disciplinary action
- An absence of complaints and low disciplinary statistics could also demonstrate that a program is performing well
- Although statistics concerning the number of disciplinary actions against license holders in a particular profession are relevant to the discussion, they may not be the most effective measure of a successful program without taking other factors into consideration
- The Board and DPH could engage in educational campaigns with the public and license holders regarding licensing requirements, how/when to contact the Department to file a complaint and the respective roles of the Board and DPH. Additionally, DPH and DCP can collaborate on educational initiatives related to pre-need funeral service contracts
- DPH is timely and thorough in conducting the required annual inspections of funeral homes and the issuance of inspection certificates