

STATEMENTS OF POLICY

Title 49—PROFESSION AND VOCATIONAL STANDARDS

STATE BOARD OF FUNERAL DIRECTORS [49 PA. CODE CH. 13] Profession of Funeral Directing

The State Board of Funeral Directors (Board) adds § 13.252 (relating to profession of funeral directing—statement of policy) to read as set forth in Annex A.

Background and Need for the Statement of Policy

Religious observances and practices have included funeral ceremonies since the beginning of recorded history. In the context of this historical record, this Commonwealth bears the distinction of being founded for the purpose of providing a haven of religious freedom. With the benefit of that foundation, for 200 years this Commonwealth has been home to a diversity of religious doctrines and practices that have rarely, if ever, been matched anywhere in the world.

Funeral directors have been licensed in this Commonwealth since 1895. It is well-established that “The purpose of the act was not to impose restrictions upon a trade or business-calling as such, but to protect the public health from the dangers attendant upon inexperienced conduct of undertaking by those not qualified by the necessary knowledge or principles of sanitation and disease prevention.” *Grime v. Department of Public Instruction*, 324 Pa. 371, 381, 188 A. 337, 341 (1936). For more than a century, it has been well-settled in this Commonwealth that religious observances and practices do not constitute the practice of funeral directing, even though members of the clergy and religious communities may, in the course of a religious ceremony, handle or care for the body of a deceased human being. This statement of policy codifies the Board’s interpretation of existing law.

Fiscal Impact and Paperwork Requirements

The statement of policy will not have adverse fiscal impact on the Commonwealth or its political subdivisions and will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Statutory Authority

The statement of policy is authorized under sections 11, 13, 15 and 16(a) of the Funeral Director Law (63 P. S. §§ 479.11, 479.13, 479.15 and 479.16(a)).

Effective Date

This statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

Additional Information

Persons who require additional information about the statement of policy should submit inquiries to Board Counsel, State Board of Funeral Directors, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7200, st-funeral@state.pa.us.

MICHAEL J. YEOSOCK, F.D.,
Chairperson

(Editor’s Note: Title 49 of the Pennsylvania Code is amended by adding a statement of policy in § 13.252 to read as set forth in Annex A.)

Fiscal Note: 16A-4825. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

STATEMENTS OF POLICY

§ 13.252. Profession of funeral directing—statement of policy.

(a) Since the enactment of the act, the Board, the Bureau and the Bureau of Enforcement and Investigation have interpreted “profession” as used in section 2(1) of the act (63 P. S. § 479.2(1)) to exclude:

(1) An individual engaged in the performance of the ceremonies, customs, religious rites or religion of any people, denomination or sect as constituting the practice or observance of religion in accordance with Pa. Const. Art. I, § 3 and U.S. Const. amend. I.

(2) A religious denomination or sect, or a body composed of members of a denomination, when the acts of the religious denomination or sect constitute the practice or observance of religion under Pa. Const. Art. I, § 3 and U.S. Const. amend. I.

(3) A committee of a church, meeting, mosque, synagogue, temple or other congregation of religious believers in the handling, transporting, preparing and disposition of deceased human bodies in accordance with the practice or observance of religion under Pa. Const. Art. I, § 3 and U.S. Const. amend. I.

(b) The exclusion of religious practices and observances in subsection (a) from the term “profession” does not extend to a person, whether or not that person is a religious body, denomination or sect, a member of a religious body, denomination or sect, has been ordained as a member of the clergy of a religious body, denomination or sect, or commits the act in connection with a religious practice or observance, who performs any of the following acts:

(1) Advertises as a funeral director.

(2) Holds himself out as a funeral director.

(3) Embalms or performs the scientific preparation of human remains.

(4) Engages in “trade” or “commerce” as defined in section 2 of the Unfair Trade Practices and Consumer Protection Law (73 P. S. § 201-2) when trade or commerce involves either of the following:

(i) Funeral services for profit.

(ii) Funeral services and funeral merchandise incidental to funeral services for profit.

[Pa.B. Doc. No. 13-453. Filed for public inspection March 15, 2013, 9:00 a.m.]