

R.S. 45:7-32 et seq.

August 28, 1967

LEGISLATIVE HISTORY OF R.S. 45:7-32 et seq.
(Mortuary Science Act)

COPY NO. 3

L. 1952, Chapter 340 - S253

Introduced March 17 by Senator Clapp.

Amended several times during passage.

Returned by Governor with his recommendations on
May 27.

Statement on bill (Copies of original bill with
statement and Governor's conditional veto enclosed).

L. 1960, Chapter 184 - A41

Introduced May 2 by Mr. Werner.

Not amended during passage.

No statement on bill.

We could not locate any reports or hearings on these laws.

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SENATE, No. 253

STATE OF NEW JERSEY

INTRODUCED MARCH 17, 1952

By Mr. CLAPP

Referred to Committee on Public Health

AN ACT to revise and codify the law relating to the profession of mortuary science, embalming and funeral directing, creating a State Board of Mortuary Science of New Jersey and defining its powers and duties; authorizing the licensing of practitioners of mortuary science and of embalmers and funeral directors to practice their profession; providing for the registration and examination of trainees; prescribing rules and regulations governing the profession and to fix penalties for violations of the provisions of this act and of said rules and regulations.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. This act shall be known as the "Mortuary Science Act."

2. In the interest of, and to better secure, the public health, safety and welfare and for the more efficient administration and supervision of sanitary codes and health regulations, the practice of mortuary science and the practice of embalming and funeral directing are hereby declared to be a profession.

3. As used in this act:

(a) "Board" means the State Board of Mortuary Science of New Jersey.

(b) "Embalming" means the disinfecting or preservation of a dead human body, entirely or in part by the use of chemical substances, fluids

2
6 or gases in the body, or by introduction of the same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities.

9 (c) "Funeral directing" means (1) the engaging in or conducting or holding one's self out as being engaged in or conducting the preparation (other than embalming) for burial or disposal and the direction or supervision of burial or disposal of dead human bodies; or (2) maintaining, using or operating a mortuary; or (3) in connection with one's name or mortuary using the words "mortician" or "funeral director" or "undertaker" or any other words or title of like import or signification.

16 (d) "Mortuary science" means embalming and funeral directing, as the same are herein defined.

18 (e) "Embalmer" means a qualified person who practices or engages in embalming, as the same is herein defined.

20 (f) "Funeral director" includes "undertaker" and means a qualified person who practices or engages in funeral directing, as the same is herein defined.

23 (g) "Practitioner of mortuary science" means a qualified person who practices or engages in mortuary science, as the same is herein defined and who (1) shall be licensed under the provisions of this act as a practitioner of mortuary science, or (2) holds a license as both an embalmer and a funeral director under the provisions of any prior law or laws of this State, or (3) holds a license as an embalmer under the provisions of any prior law or laws of this State and shall be licensed under the provisions of section twenty-one of this act as a funeral director, or (4) holds a license as a funeral director under the provisions of any prior law or laws of this State and shall be licensed under the provisions of section twenty-one of this act as an embalmer.

34 (h) "Mortuary" means any place or premises devoted to or used in the care and preparation for burial, disposition, or transportation of dead human bodies, or any place where any person or persons shall hold forth

37 that he, she, or they are engaged in the practice of the profession of mortu-
38 tuary science, embalming or funeral directing.

39 (i) "Registered trainee" means a person who is duly registered with
40 the board and who is engaged in the State of New Jersey in learning to
41 practice as a practitioner of mortuary science under the personal instruc-
42 tion and supervision of a person duly licensed as a practitioner of mortu-
43 ary science and who has an annual case volume as hereinafter provided in
44 section eighteen of this act.

1 4. There is hereby created in the Division of Professional Boards in
2 the Department of Law and Public Safety a State Board of Mortuary
3 Science of New Jersey, which board shall consist of five members, each
4 of whom shall be a citizen of the United States and a resident of the State
5 of New Jersey, duly licensed as a practitioner of mortuary science and
6 shall have had a minimum of five consecutive years of experience and
7 practice as a practitioner of mortuary science in this State immediately
8 preceding his appointment. Subject to the provisions of section 45:1-2 of
9 the Revised Statutes, members of the board shall be appointed annually by
10 the Governor for a term of three years. Each member shall hold office after
11 the expiration of his term of office until his successor shall be duly ap-
12 pointed and qualified. Vacancies occurring by reason of the expiration of
13 term of office shall be filled by the Governor in the calendar year in which
14 any such vacancy occurs for a term of three years from July first of the
15 year of appointment. Vacancies occurring by reason of the failure or neg-
16 lect of the Governor to make appointments upon the expiration of terms
17 of office as hereinabove provided and vacancies occurring for any other
18 reason whatsoever shall be filled by the Governor for the unexpired term
19 only. Members of the Board of Embalmers and Funeral Directors holding
20 office at the time this act becomes effective shall continue in office as mem-
21 bers of the State Board of Mortuary Science of New Jersey for the re-
22 mainder of the terms for which they were severally appointed.

1 5. The records of the present Board of Embalmers and Funeral Directors
2 shall be delivered to the State Board of Mortuary Science of New Jersey
3 created under this act.

1 6. Each member of the board, before entering upon his duties and within
2 thirty days after receiving notice of his appointment, shall take and subscribe
3 an oath of office such as is provided for other State officials. Upon the failure
4 of a member of the board to take the oath of office as provided herein, a
5 vacancy in the membership of the board shall then exist which shall be filled
6 by the Governor as provided in section four. The board shall annually select
7 from its membership a president and secretary, who shall serve until their
8 successors shall be elected and qualified. The board is authorized and em-
9 powered to adopt and promulgate such rules and regulations, not inconsistent
10 with this act, as it may deem expedient for the transaction of its business
11 and for the purpose of efficiently enforcing the provisions of this act.

1 7. The board is authorized and empowered to adopt such rules and
2 regulations, not inconsistent with this act, as shall be reasonably proper and
3 advisable for the promotion or improvement of the standards of service,
4 protection and practice to be followed in the profession of mortuary science,
5 embalming and funeral directing in the State of New Jersey and for and in
6 the interest, preservation and improvement of the public health, morals, safety
7 and welfare.

1 8. The board shall adopt a seal, of which the secretary shall have the
2 care and custody, and all courts of this State shall take judicial notice of such
3 seal.

1 9. The president of the board shall preside at all meetings and he shall
2 exercise and perform all duties and functions incidental to the office of presi-
3 dent of the board.

1 10. The secretary shall keep a record of all proceedings of the board,
2 shall exercise and perform all duties and functions incidental to his office and
3 such other duties and functions as may be assigned by the board. He shall
4 receive such compensation for his services and shall give such bond for the
5 faithful performance of his duties as the board may determine.

6 The secretary of the board shall keep a record in which shall be
7 registered the name and professional address of every person to whom
8 licenses have been granted in accordance with the provisions of this act or in
9 accordance with the provisions of prior laws of this State, the number and
10 date of such license and the date of each renewal thereof.

11 The secretary shall, whenever requested so to do, certify over the seal of
12 the board, whether the records kept by the board show or fail to show a license
13 to carry on the practice of mortuary science or of embalming or funeral
14 directing, or both, or the issuance of any renewal of any such licenses or
15 whether any person has or has not a license in full force and effect. The fee
16 for any such certificate shall be one dollar (\$1.00). Any such certificate,
17 whether made by the secretary upon such request or for use in proceedings
18 before the board or in which the board may be a party, shall be *prima facie*
19 evidence of the facts therein stated.

20 In the month of January of each and every year the secretary of said
21 board shall supply to each licensed practitioner of mortuary science, to each
22 licensed embalmer and to each licensed funeral director a list of all practi-
23 tioners of mortuary science, embalmers, and funeral directors holding a
24 license under this act or under prior laws of this State, giving the names of
25 such persons, their professional address and the number and nature of their
26 licenses.

1 11. Subject to the provisions of chapter four hundred thirty-nine of the
2 laws of one thousand nine hundred and forty-eight, the board may appoint an
3 agent whose title shall be "inspector of the State Board of Mortuary Science
4 of the State of New Jersey," and the board may remove such agent at any
5 time. Such agent shall, during his continuance in office, be authorized to serve
6 and execute any process issued by any court of record under the provisions
7 of this act and shall also have power to serve any papers or process issued by
8 the board or any officer or member thereof under authority of this act and
9 shall also have power to enter the mortuary, office or establishment, or place
10 of practice of any practitioner of mortuary science, embalmer, or funeral

11 director or any mortuary office or establishment, or place where embalming or
 12 undertaking is carried on, for the purpose of inspecting the premises and the
 13 license and registration of practitioners of mortuary science, embalmers, and
 14 funeral directors operating therein. The appointment of such agent shall
 15 not be subject to the provisions of Title 11 of the Revised Statutes of this
 16 State and he shall be paid such compensation as the board may determine.

1 12. Subject to the provisions of chapter four hundred thirty nine, of the
 2 laws of one thousand nine hundred and forty-eight, the board may engage
 3 the services of such assistants and employees as may be necessary to carry
 4 out the provisions of this act. Such assistants and employees shall not be
 5 subject to the provisions of Title 11 of the Revised Statutes of this State
 6 and the board shall fix and pay the compensation of its assistants and em-
 7 ployees.

1 13. A quorum of the board shall consist of a majority of the members
 2 thereof and the board may act in all cases by a vote of the majority of those
 3 present except that no license shall be revoked or suspended unless a majority
 4 of the whole board vote in favor of such revocation or suspension. In the
 5 absence or in case of the incapacity of any officer of the board, the board
 6 may designate any other member of the board to fulfill the duties of the
 7 absent or incapacitated officer for the time being.

1 14. The members of the board shall receive twenty-five dollars per diem
 2 for time spent in discharge of their duties and in addition shall be entitled
 3 to have and receive their necessary traveling expenses.

1 15. All fees received under the provisions of this law shall be col-
 2 lected by the secretary of the board and shall be accounted for, disposed of
 3 or used as provided by law.

1 16. No person shall engage in the practice of mortuary science, embalm-
 2 ing or funeral directing, unless he shall have been duly licensed so to do, by
 3 the board, under the provisions of this act or under the provisions of any
 4 prior law of this State and unless such license is unrevoked and in full force

5 and effect; *provided*, that this shall not apply to a registered trainee working
6 under the direct supervision of a practitioner of mortuary science.

1 17. Except as provided in section twenty-one of this act, from and after
2 July first, one thousand nine hundred and fifty-two, the board shall grant
3 only a single license as practitioner of mortuary science to any applicant,
4 and any person shall hold a license as a practitioner of mortuary science is-
5 sued under the provisions of this act before being permitted to practice
6 mortuary science or embalming or funeral directing in this State.

1 18. (a) Except as hereinafter provided in section twenty-one of this act,
2 every person desiring to enter into the practice of mortuary science on and
3 after July first, one thousand nine hundred and fifty-two, before being li-
4 censed by the board so to do:

5 (1) Shall have passed an examination to be conducted by the board
6 to determine his qualifications and fitness therefor. Such examination,
7 the scope, character and content of which shall be determined by the
8 board, shall be the same for all candidates at each examination, and shall
9 include the following subjects: anatomy; physiology; pathology; chem-
10 istry; disinfection; hygiene; sanitary science; bacteriology; dissection;
11 the care, preservation, embalming, transportation, burial or disposal of
12 dead human bodies, including those dead as a result of contagious and in-
13 fectionous diseases; the signs of death and the manner in which death may
14 be determined; laws and rules governing vital statistics and the prepara-
15 tion and transportation for burial of dead human bodies; the provisions
16 of this act and of the rules and regulations adopted by the board; pro-
17 fessional ethics; mortuary accounting; and such other subjects as the
18 board may determine, by rule or regulation, to be necessary, proper or
19 reasonably calculated to establish the qualifications and fitness of the
20 applicant. Such examinations shall be in writing and shall be held at
21 least once in each year, and oftener if the board shall so determine by
22 rule or regulation, at such times and places as may be fixed by the board.
23 In addition to the written examination herein provided for, the examina-

24 tion of each applicant shall include, wherever possible, an actual dem-
25 onstration on a cadaver of the embalming proficiency and qualifica-
26 tions of the applicant;

27 (2) Shall have completed three years of practical training and ex-
28 perience as a registered trainee in regular, steady, bona fide fulltime serv-
29 ice of a grade and character satisfactory to the board, in the State of
30 New Jersey, with a person duly licensed as a practitioner of mortuary
31 science under this act or as both an embalmer and funeral director
32 under any prior law of this State and whose annual case volume shall be
33 equal to at least fifty cases for each registered trainee in his service;
34 except that a person who has satisfactorily completed one academic
35 year of instruction in a college or university approved by the board or
36 who has satisfactorily completed two academic years of instruction in a
37 school of mortuary science approved by the board need only have com-
38 pleted two years of practical training and experience as a registered
39 trainee. Not more than two registered trainees shall be registered con-
40 currently under any licensed person. The board is authorized and em-
41 powered to prescribe rules and regulations to insure that each trainee re-
42 ceives satisfactory and efficient training and experience which may pro-
43 vide for the periods that may be credited toward the required year of
44 training and experience, the nature, character and extent of the services
45 to be performed by the trainee, for such practical and actual experience
46 in mortuary science and assisting in the same as it shall determine and
47 for the making of such reports by the trainee and by the licensee with
48 whom he is registered as may be advisable and for such other qualifica-
49 tions in the applicant as may be reasonably calculated to insure and
50 protect the public health, morals, safety and welfare;

51 (3) Shall have, upon commencing his period of training and experi-
52 ence as provided in subdivision (a) (2) of this section registered as a
53 trainee with the board, upon a form to be provided by the board, and
54 has paid to the board a registration fee of fifty dollars (\$50.00), and
55 has received from the board a certificate as a registered trainee;

56 (4) Shall have been a resident of the State of New Jersey continu-
57 ously during the period of his training and experience; and,

58 (5) Shall have passed his twenty-first birthday.

59 (b) An applicant who meets the requirements of section nineteen of
60 this act shall be admitted to the examinations prescribed in subdivision (a)
61 (1) of this section but a license to enter into the practice of mortuary science
62 shall not be issued or granted to any such applicant by the board unless and
63 until such applicant has completed the period of practical training and ex-
64 perience as a registered trainee required by subdivision (a) (2) of this sec-
65 tion.

1 19. The board shall admit to examination or re-examination any appli-
2 cant who pays a fee of fifty dollars (\$50.00) for the initial examination and a
3 fee of ten dollars (\$10.00) for each re-examination. Each applicant, before
4 being admitted to an examination, shall first submit to the board evidence
5 verified by oath and satisfactory to the board that:

6 (a) He is a citizen of the United States and has been a resident of the
7 State of New Jersey for a period of at least six months prior to the date of
8 the examination;

9 (b) He is of good moral character;

10 (c) He has satisfactorily completed a regular four-year high school
11 course, or its equivalent, as determined by the State Board of Education and
12 at least one academic year of instruction in a school of mortuary science
13 approved by the board.

1 20. If an applicant fails on the first examination, he may have one or
2 more but not exceeding three additional examinations, which shall be taken
3 within a period of five years immediately following the completion of his in-
4 struction in a school of mortuary science but not thereafter. If an applicant
5 fails to pass four examinations, he shall not thereafter be permitted to apply
6 for a license under this act. The board may, by rule or regulation, extend
7 the period of time within which an applicant to examination shall take his
8 examination as provided in this section; *provided, however, that such ex-*

9 tension of time may be granted only to applicants whose period of training
10 and experience as registered trainees or whose period of instruction in an
11 approved school of mortuary science is interrupted by active duty in the
12 military service of the United States.

13 (a) 21. (a) Until July first, one thousand nine hundred and fifty-seven, the
14 board shall also hold examinations for licenses as embalmers and for li-
15 censes as funeral directors in the manner provided by chapter seven of Title
16 45 of the Revised Statutes, as amended or supplemented, and the rules and
17 regulations promulgated thereunder and such re-examinations as may be
18 necessary thereafter, but no applicant shall be admitted to any examination
19 after failing to pass four examinations. The board shall admit to any such
20 examination any person, who at the time this act shall take effect shall be
21 duly registered as an apprentice for license as embalmer or as an apprentice
22 for license as a funeral director, as the case may be, and shall otherwise be
23 qualified in accordance with chapter seven of Title 45 of the Revised Statutes,
24 as amended or supplemented, and the rules and regulations promulgated
25 thereunder. The board shall issue a license as embalmer or a license as fu-
26 neral director to those who shall so qualify and pass such an examination
27 and the board shall issue a license as embalmer and funeral director to those
28 who shall so qualify. Any such license shall entitle the licensee to practice
29 as an embalmer, a funeral director, or as an embalmer and funeral director,
30 as the case may be, in accordance with the provisions and limitations of
31 chapter seven of Title 45 of the Revised Statutes, as amended or supple-
32 mented, and under the provisions and limitations of this act.

33 (b) The board may, by rule or regulation, extend the date for the hold-
34 ing of examinations for licenses as embalmers and for licenses as funeral di-
35 rectors as provided in paragraph (a) of this section; *provided, however*, that
36 an extension of such date may be granted only to applicants whose period
37 of apprenticeship as a registered apprentice or whose course in an approved
38 school of embalming and funeral management is interrupted by active duty in
39 the military service of the United States.

22. All licenses and renewals thereof issued pursuant to the provisions of this act shall be signed by the members of the board and shall have the seal of the board affixed thereto, and shall expire and terminate on the first day of September next following the date of their issue, unless sooner revoked and cancelled.

23. Any person holding a license or licenses under this act or under any prior law of this State may have the same renewed upon making and filing with the board an application therefor upon forms provided by the board and upon payment of a renewal fee of ten dollars (\$10.00); provided, that any person neglecting or failing to have his license renewed, as above, may have the same renewed by making application therefor during the six months following the expiration date upon payment of a revival and renewal fee of fifty dollars (\$50.00).

24. Every individual, partnership, or corporation which operates or maintains within this State a mortuary or which in the usual and regular course of his or its practice makes use of a mortuary owned, operated, or maintained by another shall annually apply to the board for a certificate of registration for each mortuary operated, maintained, or used by the applicant and shall report under oath any facts requested by the board, and such individual, partnership, or corporation shall pay an annual registration fee of twenty dollars (\$20.00) for each such mortuary. Upon verification of the statements thus reported and the receipt of the requisite fee, the board shall issue a certificate of registration which shall bear date of January first for the year of issue and shall expire on December thirty-first of such year. No mortuary shall be operated, maintained, or used at any location by any person, firm or corporation at any location not specified in a certificate of registration issued under this section.

25. Any person now entitled to practice embalming or funeral directing or both under the provisions of any prior law of the State of New Jersey shall continue to be entitled to practice or engage in the same notwithstanding the enactment of this act, and the validity of any license, or re-

5 newals thereof, to practice embalming or funeral directing, or both, under
6 any such prior law, shall not be affected by the enactment of this act, but
7 all such persons shall in all other respects be subject to the provisions of
8 this act.

1 26. (a) No corporation shall carry on, or continue to carry on, or be
2 authorized to carry on or to continue to carry on or hold itself out, or to
3 continue to hold itself out as carrying on, the practice of mortuary science,
4 embalming, or funeral directing; except that any corporation which was on
5 March twenty-eighth, nineteen hundred twenty-seven, authorized under ear-
6 lier laws of this State to carry on the practice of embalming or funeral di-
7 recting in such a way that, under the law, its right to do so could not have
8 been entirely forbidden on March twenty-eighth, nineteen hundred twenty-
9 seven, may continue such practice under such reasonable rules and regula-
10 tions as the board may determine with respect to the management and
11 control of the actual practice of mortuary science, embalming or funeral
12 directing by persons holding licenses granted by the board and with respect
13 to such other matters as the board may determine.

14 (b) No corporation permitted under the laws of this State to carry on
15 the practice of embalming or funeral directing shall change its corporate
16 name except to that of a person or persons duly licensed to practice mor-
17 tuary science, embalming, or funeral directing under the provisions of this
18 act or under the provisions of any prior law of this State.

1 27. No partnership shall carry on or continue to carry on, or be au-
2 thorized to carry on or continue to carry on or hold itself out, or con-
3 tinue to hold itself out, as carrying on the practice of mortuary science,
4 embalming or funeral directing unless the practice is carried on under a
5 firm name which shall consist of the surnames of one or more members of
6 the partnership, and unless all members of the partnership are duly licensed
7 as practitioners of mortuary science, embalmers or funeral directors; *pro-*
8 *vided, however,* that any partnership for the practice of embalming or fu-
9 neral directing, or both, in existence and actually engaged in practice on

10 July first, one thousand nine hundred and fifty-two, in accordance with the
 11 provisions of chapter seven of Title 45 of the Revised Statutes, as amended
 12 or supplemented, each of the members of which are duly licensed as either
 13 an embalmer or funeral director under any prior law of this State, may con-
 14 tinue such practice under the firm name in use on that date until the death
 15 or retirement or withdrawal from the partnership, whichever shall first oc-
 16 cur, of any member thereof.

17 Nothing herein contained shall prohibit a licensed practitioner of mor-
 18 tuary science, embalmer or funeral director from acting as an employee of
 19 a partnership complying with the provisions of this section, provided the
 20 name of such employee does not appear as part of the firm name.

1 28. The license of any practitioner of mortuary science or of any em-
 2 balmer and funeral director, or either, shall terminate upon his decease; but
 3 upon application to the board the practice of a deceased licensee who, at
 4 the time of his death, was practicing under his own name and not as a
 5 member of a partnership or as an officer, agent or employee of a corpora-
 6 tion or as an employee of a partnership or of another licensee, may be con-
 7 tinued for liquidation purposes and for the benefit of the widow or persons
 8 interested in the estate of the deceased and the name of the deceased licensee
 9 may be used for a period of not more than five years from the date of death
 10 of the licensee or from the date this act becomes effective where such li-
 11 censee has died prior to such effective date; *provided*, the practice is carried
 12 on under the supervision of a duly licensed practitioner of mortuary science
 13 or a duly licensed embalmer and funeral director in such manner as the board
 14 shall determine by rules and regulations.

1 29. Except as otherwise provided in this act, no licensed person shall
 2 carry on, or be authorized to carry on or continue to carry on or hold himself
 3 out, or continue to hold himself out, as carrying on the practice of mortuary
 4 science, embalming or funeral directing as an officer, agent or employee of a
 5 corporation or under the name of a corporation, or under a firm or partner-

6 ship name, or under an assumed name, or otherwise than under his own
7 name.

1 30. No person shall operate, maintain or use a mortuary within this
2 State unless:

3 (a) He, they or it shall annually register with the board in accord-
4 ance with the provisions of section twenty-four of this act;

5 (b) The certificate of registration issued by the board shall be conspicu-
6 ously displayed within the establishment;

7 (c) The licenses of the individual owner, of all partners, or of the man-
8 ager of the establishment in all cases where the establishment is not man-
9 aged by a licensed individual owner or licensed partners, shall be conspicu-
9a ously displayed within the establishment;

10 (d) It shall be under the immediate and personal supervision, direction,
11 management, and control of a person duly licensed as a practitioner of mortu-
12 ary science, under the provisions of this act, or of a person duly licensed as a
13 funeral director under the provisions of this act or of any prior law of this
14 State; and all funeral directing shall be under the immediate and personal
15 supervision, direction, management, and control of a person duly licensed as a
16 practitioner of mortuary science, under the provisions of this act, or of a
17 person duly licensed as a funeral director under the provisions of this act or
18 of any prior law of this State;

19 (e) Its construction, maintenance and operation shall conform to the rules
20 and regulations of the board promulgated to safeguard and promote the public
21 health, safety, morals and welfare.

1 31. After notice and hearing as hereinafter provided, the board may refuse
2 to grant, or may suspend or revoke any license to practice mortuary science
3 or to practice embalming and funeral directing, or either of them, in this
4 State, if it determines that the holder of any such license has been guilty of
5 any of the following acts or omissions:

6 (a) The employment of fraud and deception in applying for a license or
7 a renewal of a license or in the passing of an examination provided for in
8 this act or in any rule or regulation of the board;

- 9 (b) The violation of any provision of this act;
- 10 (c) The violation of any rule or regulation of the board adopted pur-
11 suant to the provisions of this act;
- 12 (d) Violation of any State law or municipal or county ordinance or regu-
13 lation affecting the handling, custody, care or transportation of dead human
14 bodies;
- 15 (e) Assigning, loaning, selling or fraudulently obtaining any license, rec-
16 ord, or certificate for funeral directing or for operating or maintaining a
17 mortuary, or aiding or abetting therein;
- 18 (f) Gross incompetence;
- 19 (g) Chronic and persistent inebriety, or the habitual use of narcotics;
- 20 (h) Conviction of a crime involving moral turpitude; or where any li-
21 censee or applicant for a license has pleaded nolo contendere or non vult to
22 any indictment, allegation or complaint, alleging the commission of a crime
23 involving moral turpitude. The record of conviction or the entry of such a
24 plea in any court of this State or any other State, or in any of the courts of
25 the United States shall be sufficient warrant for the revocation or suspension
26 of a license;
- 27 (i) Conviction in a court of competent jurisdiction of a high misde-
28 meanor;
- 29 (j) Unethical or unprofessional conduct or engaging in the practice of
30 mortuary science or the practice of embalming and funeral directing, or
31 either of them, in a manner which is prejudicial to the public health, safety,
32 morals and welfare;
- 33 (k) False, fraudulent, or misleading advertising;
- 34 (l) Any conduct which is of a character likely to deceive or defraud the
35 public;
- 36 (m) The performance of any fraudulent act in the conduct of his prac-
37 tice.

1 32. No person shall inject any fluid or substance into any cavity or
2 artery of the body of any person who has come to a sudden, violent or un-
3 timely death, or of any person found dead, the manner of whose death is not
4 known, until permission is obtained from the medical examiner, county
5 physician, or the coroner of the county in which the dead body lies. No
6 person shall employ, for the purpose of the practice of mortuary science,
7 funeral directing or embalming, any arsenical or other poisonous agent
8 which may by its presence in the viscera prevent the detection of criminal
9 usage of the poisonous agent before the death of the individual occurred;
10 but this provision shall not prohibit the use by any association incorporated
11 under article four of chapter nine of Title 45 of the Revised Statutes, of any
12 substance for the preservation of dead bodies which have legally come into
13 its possession.

1 33. The sale or use for embalming purposes within the State of New
2 Jersey of any fluid containing arsenic, zinc, mercury, copper, lead, silver,
3 antimony, chloral, or cyanogen, or any compound containing any of said
4 substances, or any poisonous alkaloid is prohibited. The board shall have
5 power, by rules and regulations, to provide for appropriate tests to be made
6 of all brands of embalming compounds sold or used within this State or in-
7 tended for sale or use within this State, and shall disapprove for such sale
8 or use any such compounds that, upon such tests, are determined to contain
9 any substance herein prohibited. The board shall have power to publish a
10 list of such compounds that, upon such tests, are determined to comply with
11 the provisions of this section. Nothing in this section contained shall pro-
12 hibit the use by any association incorporated under article four of chapter
13 nine of Title 45 of the Revised Statutes, of any substance for the preserva-
14 tion of dead bodies which have legally come into its possession.

1 34. Every practitioner of mortuary science, embalmer or funeral director
2 shall report to the local health officer all contagious cases in which he may
3 be called, within twelve hours after death or as soon as may be after being
4 called.

1 35. Whenever the board shall have reason to believe that any person to
2 whom a license has been issued is guilty of any of the acts or omissions
3 specified in sections thirty-one to thirty-four, inclusive, of this act, or when-
4 ever written complaint is filed with the board charging a person licensed as
5 an embalmer, funeral director, or practitioner of mortuary science with any
6 of said acts or omissions, it shall be the duty of the said board to conduct an
7 investigation and if from such investigation it shall appear to the board that
8 there is reasonable ground for belief that the accused may be guilty of the
9 violations charged, a time and place shall be set by the board for a hearing
10 to determine whether or not the license of the accused shall be revoked.
11 Complaints may be preferred by any person or the board may on its own
12 motion direct its secretary to prefer a complaint.

1 36. No hearing shall be held by the board until the accused has been
2 furnished with a statement of the complaint and charges against him and a
3 notice of the time and place of hearing thereof, the furnishing of said
4 notice and the charges to be given said accused at least fifteen days prior to
5 the date of hearing. The accused may be present at such hearing in person
6 or by counsel or both to disprove the charges made against him. If upon
7 such hearing the board finds the charges are true, it may revoke or suspend
8 the license of the accused. A stenographic report of each proceeding to
9 revoke or suspend a license shall be made at the expense of the board, and
10 a transcript thereof kept in its files.

1 37. Any person who has been denied a license renewal, or whose license
2 has been suspended or revoked, or is otherwise aggrieved by any ruling or
3 decision of the board, may appeal therefrom to the Appellate Division of
4 the Superior Court.

1 38. The president or any member of the board may administer oaths
2 and shall have power to issue subpoenas, to compel the attendance of licen-
3 sees, applicants for licenses, and witnesses and the production of books,
4 papers and records before the board in any inquiry or proceedings which
5 may be instituted by it or be pending before it under this act, and such

6 subpoenas may be served by any person eighteen or more years of age, and
 7 the same witness fees shall be paid as in the cases of subpoenas issued out of
 8 the Superior Court. Service of a subpoena shall be made by delivering a
 9 copy thereof to the person named and by tendering to him the fee for one
 10 day's attendance and such mileage as may be allowed by law.

1 39. If any person who, having been personally served with a subpoena is-
 2 sued by the board and given or tendered the fees prescribed herein, shall,
 3 without legal excuse, fail to appear before the board, or fail to produce rec-
 4 ords or documents required to be produced by the subpoena, or fail or refuse
 5 to testify or to answer any proper question, the board may apply to the
 6 Superior Court, or to a judge thereof, who shall have the power of the court
 7 for that purpose, upon proof by affidavits of the facts, for an order return-
 8 able in not less than two or more than ten days directing such person to
 9 show cause before the court or the judge thereof who made the order, or to
 10 any other judge of the court, why he or she should not comply with the sub-
 11 poena or order of the board, and upon the return of such order the court or
 12 judge before whom the matter may come on for hearing shall examine un-
 13 der oath the person whose testimony may be relevant and such person shall
 14 be given an opportunity to be heard, and if the court or judge determines
 15 that such person refused, without legal excuse, to obey the command of such
 16 subpoena to be examined or to answer a proper question or to produce a
 17 record or documents which he or she was ordered to produce, said court or
 18 judge may order said person to comply forthwith with the subpoena or order
 19 of the board, and any failure to obey such order of the court or judge may
 20 be punished by the court or judge as a contempt of such Superior Court.

1 40. (a) Any person, firm or corporation who shall violate any of the pro-
 2 visions of this act, or any rule or regulation of the State Board of Mortuary
 3 Science of New Jersey except where a penalty is otherwise herein specifically
 4 provided, shall be subject to a penalty of two hundred dollars (\$200.00) for
 5 for the first offense and to a penalty of five hundred dollars (\$500.00) for
 6 a second and each subsequent offense to be sued for and recovered in the
 7 name of the State Board of Mortuary Science of New Jersey.

8 (b) Jurisdiction of suits and proceedings to collect and enforce such pen-
 9 alties is hereby conferred upon every County Court and every county dis-
 10 trict court, and the practice and procedure in such suits and proceedings
 11 shall be such as is and shall be provided for by rules promulgated by the
 12 Supreme Court of New Jersey in respect of such suits and proceedings and
 13 the provisions of chapter fifty-eight of Title 2A of the New Jersey Statutes.
 14 If judgment be rendered against the defendant, the plaintiff shall recover
 15 its costs which shall be those as are taxed in other actions of a civil nature in
 16 the court in which the judgment is rendered. If judgment be rendered
 17 against the defendant in any suit or proceeding brought under
 18 section and the defendant refuses or fails to pay forthwith the
 19 amount of the judgment rendered against him, the court in which
 19A the suit or proceeding was brought shall cause the defendant to be
 20 committed to the county jail for a period of not less than thirty days nor
 21 more than ninety days in case of a first conviction, and for a period of not
 22 less than sixty days nor more than one hundred and sixty days for each
 23 subsequent conviction.

1 41. The board shall provide for and hold each year at the time and
 2 place of the meeting of the New Jersey State Funeral Directors' Associa-
 3 tion, a course of lectures and practical demonstrations on public health and
 4 the latest and improved methods of embalming, sanitation and disinfecting
 5 for the benefit of licensees.

6 The president and secretary of the board and the president and secre-
 7 tary of the New Jersey State Funeral Directors' Association shall constitute
 8 a committee for the selection of lecturers and demonstrators. The commit-
 9 mittee shall have full authority in the selection of said lecturers and demon-
 10 strators and shall fix the compensation to be paid, and the expense of said
 11 course of lectures and demonstrations shall be paid out of the funds of the
 12 board.

1 42. The board shall report to the State Department of Health the name
 2 and residence of every person to whom it may issue a license and shall, be-

3 fore January first, in each year, forward to the registrar of vital statistics
 4 of each municipality a printed list duly verified, containing the names of all
 5 licensed practitioners of mortuary science, funeral directors and embalmers
 6 and such list shall be kept on file in such office. The board shall issue to each
 7 person granted a license an identification card stating that the holder there-
 8 of has received a license and is carrying on the practice of mortuary science,
 9 or of funeral directing or embalming. The proper holder of such a card shall
 10 have the same right to carry on the practice of mortuary science, or of
 11 funeral directing or embalming as those whose names appear on file in the
 12 office of the registrar of vital statistics in each municipality.

1 43. The rules and regulations adopted by the board pursuant to this act
 2 shall be printed and copies thereof shall be sent by the board to any person
 3 licensed under this act or under any prior law, who makes application there-
 4 for, and, upon payment of a fee of one dollar to any other person who
 5 makes application therefor, and shall also be open for inspection at the office
 6 of the board. Every license and renewal granted under this act shall con-
 7 tain a statement to the effect that the practice licensed must be conducted in
 8 accordance with the law and with the rules and regulations of the board
 9 adopted in pursuance thereto, and that a copy of such rules and regula-
 10 tions may be obtained upon request at the office of the board.

1 44. In the event that any section, paragraph, clause, sentence or part
 2 of this act shall for any reason be adjudged to be invalid by any court of
 3 competent jurisdiction, such judgment shall not impair the remainder there-
 4 of, but shall be confined strictly in its operation to the particular clause, sec-
 5 tion, paragraph or part thereof so held to be invalid.

1 45. All acts and parts of acts inconsistent with the provisions of this
 2 act are hereby repealed.

1 46. This act shall take effect July first, one thousand nine hundred and
 2 fifty-two.

STATEMENT

The purpose of this bill is stated in its title.

This act has the approval of the Attorney-General's office, the Board of Embalmers and Funeral Directors, and the New Jersey State Funeral Directors Association.

Sections 1, 2, 3, 5, 9, 30, 43 and 44 are not in present statute, but do not alter the law in any substantial way.

Sections 4, 6, 7, 8, 10, 11, 12, 13, 15, 16, 22, 23, 26(a), 29, 32, 34, 36, 38, 39, and 42 are based on similar provisions in the present statute but do not provide for substantial changes therein.

Section 14 increases per diem allowances of board members from \$10 to \$25.

Sections 17, 18 and 19 provide for a change from separate licenses as embalmer and as funeral director to a single license as practitioner of mortuary science; for a single examination instead of two examinations; continue present educational and other requirements for applicants, including a three-year apprenticeship and one academic year of instruction in an approved school of mortuary science. Under present regulations one year's credit against this apprenticeship can be secured by completing two years of college work; whereas under the act, the same credit can be secured by completing one year of college or a second year of instruction in a school of mortuary science.

Section 20 continues limitation in present regulation to four examinations, and provides they must be taken within five years after graduation from school of mortuary science, but permits board to extend this period for persons whose training or schooling is interrupted by military service.

Section 21 provides for examinations under present statute and regulations until July 1, 1957 and issuance of licenses thereunder for benefit of persons who have registered as apprentices under present act, and permits board to extend this period for persons whose training or schooling is interrupted by military service.

Section 24 provides that every individual, partnership, or corporation which operates or maintains a mortuary or which in the usual and regular course of his or its practice makes use of a mortuary owned, operated, or maintained by another shall annually register each such mortuary with the board; the annual registration fee being \$20.00 for each mortuary.

Section 25 protects right to practice of persons licensed under prior statutes.

Section 26(b) incorporates present regulation at suggestion of Attorney-General's office.

Section 27 contains requirements for partnerships substantially as present statute and requires that firm name shall consist of surnames of one or more of the partners, but permits continuance under present firm name of partnerships operating in accordance with present statute until death, retirement or withdrawal of a partner.

Section 28 extends to five years, instead of one year under present statute and regulations, of period during which practice of deceased licensee may be carried on and extends such period to five years from effective date of act for carrying on practice of licensee who died prior to effective date of this act.

Section 31 incorporates and expands present regulation at suggestion of Attorney-General's office.

Section 33 is new and is designed to prohibit use of embalming fluids which may prevent detection of crime.

Sections 35 and 37 are procedural.

Section 40 provides for uniform penalties for violation of act and for conformity to New Jersey Statutes, Title 2A, chapter 58. Penalties are \$200 for conviction of first offense and \$500 for second and each subsequent offense; and for failure to pay penalty for first offense imprisonment for not less than 30 days nor more than 90 days, and for failure to pay penalty for second and subsequent conviction for not less than 60 days nor more than 160 days. Under present law penalty for first offense is \$100 with imprisonment for not more than 100 days for failure to pay; and penalty of \$500 for each subsequent con-

viction, with imprisonment for not more than 200 days for failure to pay.

Section 41 incorporates present regulation but eliminates provision of regulation for compulsory attendance at least once in every two years.

Section 19 provides for fee of \$50 for initial examination and of \$10 for each re-examination; present statute and regulation provide for fee of \$25 for each of two examinations, with no fee for re-examination. Section 23 provides for annual renewal fee of \$10; present statute and regulation provide for fee of \$5 for renewal of each of two licenses. Section 23 provides for reinstatement fee after failure to renew of \$50; present statute and regulation provide for reinstatement fee of \$10 for each of two licenses. Section 18(a) (3) provides for registration fee for trainees of \$50; present regulation provides for fee of \$1. Section 24 provides for registration fee of \$20 for each mortuary, which is not in present statute or regulations.

[OFFICIAL COPY REPRINT]

SENATE, No. 253

STATE OF NEW JERSEY

INTRODUCED MARCH 17, 1952

By Mr. CLAPP

Referred to Committee on Public Health

AN ACT to revise and codify the law relating to the profession of mortuary science, embalming and funeral directing, creating a State Board of Mortuary Science of New Jersey and defining its powers and duties; authorizing the licensing of practitioners of mortuary science and of embalmers and funeral directors to practice their profession; providing for the registration and examination of trainees; prescribing rules and regulations governing the profession and to fix penalties for violations of the provisions of this act and of said rules and regulations.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. This act shall be known as the "Mortuary Science Act."

1 2. In the interest of, and to better secure, the public health, safety and
2 welfare and for the more efficient administration and supervision of sani-
3 tary codes and health regulations, the practice of mortuary science and
4 the practice of embalming and funeral directing are hereby declared to be
5 a profession.

1 3. As used in this act:

2 (a) "Board" means the State Board of Mortuary Science of New
3 Jersey.

4 (b) "Embalming" means the disinfecting or preservation of a dead
5 human body, entirely or in part by the use of chemical substances, fluids

6 or gases in the body, or by introduction of the same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities.

(c) "Funeral directing" means (1) the engaging in or conducting or holding one's self out as being engaged in or conducting the preparation (other than embalming) for burial or disposal and the direction or supervision of burial or disposal of dead human bodies; or (2) maintaining, using or operating a mortuary; or (3) in connection with one's name or mortuary using the words "mortician" or "funeral director" or "undertaker" or any other words or title of like import or signification.

(d) "Mortuary science" means embalming and funeral directing, as the same are herein defined.

(e) "Embalmer" means a qualified person who practices or engages in embalming, as the same is herein defined.

(f) "Funeral director" includes "undertaker" and means a qualified person who practices or engages in funeral directing, as the same is herein defined.

(g) "Practitioner of mortuary science" means a qualified person who practices or engages in mortuary science, as the same is herein defined and who (1) shall be licensed under the provisions of this act as a practitioner of mortuary science, or (2) holds a license as both an embalmer and a funeral director under the provisions of any prior law or laws of this State, or (3) holds a license as an embalmer under the provisions of any prior law or laws of this State and shall be licensed under the provisions of section twenty-one of this act as a funeral director, or (4) holds a license as a funeral director under the provisions of any prior law or laws of this State and shall be licensed under the provisions of section twenty-one of this act as an embalmer.

(h) "Mortuary" means any place or premises devoted to or used in the care and preparation for burial, disposition, or transportation of dead human bodies, or any place where any person or persons shall hold forth

37 that he, she, or they are engaged in the practice of the profession of mor-
38 tuary science, embalming or funeral directing.

39 (i) "Registered trainee" means a person who is duly registered with
40 the board and who is engaged in the State of New Jersey in learning to
41 practice as a practitioner of mortuary science under the personal instruc-
42 tion and supervision of a person duly licensed as a practitioner of mortu-
43 ary science and who has an annual case volume as hereinafter provided in
44 section eighteen of this act.

1 4. There is hereby created in the Division of Professional Boards in
2 the Department of Law and Public Safety a State Board of Mortuary
3 Science of New Jersey, which board shall consist of five members, each
4 of whom shall be a citizen of the United States and a resident of the State
5 of New Jersey, duly licensed as a practitioner of mortuary science and
6 shall have had a minimum of five consecutive years of experience and
7 practice as a practitioner of mortuary science in this State immediately
8 preceding his appointment. Subject to the provisions of section 45:1-2 of
9 the Revised Statutes, members of the board shall be appointed annually by
10 the Governor for a term of three years. Each member shall hold office after
11 the expiration of his term of office until his successor shall be duly ap-
12 pointed and qualified. Vacancies occurring by reason of the expiration of
13 term of office shall be filled by the Governor in the calendar year in which
14 any such vacancy occurs for a term of three years from July first of the
15 year of appointment. Vacancies occurring by reason of the failure or neg-
16 lect of the Governor to make appointments upon the expiration of terms
17 of office as hereinabove provided and vacancies occurring for any other
18 reason whatsoever shall be filled by the Governor for the unexpired term
19 only. Members of the Board of Embalmers and Funeral Directors holding
20 office at the time this act becomes effective shall continue in office as mem-
21 bers of the State Board of Mortuary Science of New Jersey for the re-
22 mainder of the terms for which they were severally appointed.

1 to 5. The records of the present Board of Embalmers and Funeral Directors
2 shall be delivered to the State Board of Mortuary Science of New Jersey
3 created under this act.

1 to 6. Each member of the board, before entering upon his duties and within
2 thirty days after receiving notice of his appointment, shall take and subscribe
3 an oath of office such as is provided for other State officials. Upon the failure
4 of a member of the board to take the oath of office as provided herein, a
5 vacancy in the membership of the board shall then exist which shall be filled
6 by the Governor as provided in section four. The board shall annually select
7 from its membership a president and secretary, who shall serve until their
8 successors shall be elected and qualified. The board is authorized and em-
9 powered to adopt and promulgate such rules and regulations, not inconsistent
10 with this act, as it may deem expedient for the transaction of its business
11 and for the purpose of efficiently enforcing the provisions of this act.

1 to 7. The board is authorized and empowered to adopt such rules and
2 regulations, not inconsistent with this act, as shall be reasonably proper and
3 advisable for the promotion or improvement of the standards of service,
4 protection and practice to be followed in the profession of mortuary science,
5 embalming and funeral directing in the State of New Jersey and for and in
6 the interest, preservation and improvement of the public health, morals, safety
7 and welfare.

1 to 8. The board shall adopt a seal, of which the secretary shall have the
2 care and custody, and all courts of this State shall take judicial notice of such
3 seal.

1 to 9. The president of the board shall preside at all meetings and he shall
2 exercise and perform all duties and functions incidental to the office of presi-
3 dent of the board.

1 to 10. The secretary shall keep a record of all proceedings of the board,
2 shall exercise and perform all duties and functions incidental to his office and
3 such other duties and functions as may be assigned by the board. He shall
4 receive such compensation for his services and shall give such bond for the
5 faithful performance of his duties as the board may determine.

6 The secretary of the board shall keep a record in which shall be
7 registered the name and professional address of every person to whom
8 licenses have been granted in accordance with the provisions of this act or in
9 accordance with the provisions of prior laws of this State, the number and
10 date of such license and the date of each renewal thereof.

11 The secretary shall, whenever requested so to do, certify over the seal of
12 the board, whether the records kept by the board show or fail to show a license
13 to carry on the practice of mortuary science or of emblaming or funeral
14 directing, or both, or the issuance of any renewal of any such licenses or
15 whether any person has or has not a license in full force and effect. The fee
16 for any such certificate shall be one dollar (\$1.00). Any such certificate,
17 whether made by the secretary upon such request or for use in proceedings
18 before the board or in which the board may be a party, shall be prima facie
19 evidence of the facts therein stated.

20 In the month of January of each and every year the secretary of said
21 board shall supply to each licensed practitioner of mortuary science, to each
22 licensed embalmer and to each licensed funeral director a list of all practi-
23 tioners of mortuary science, embalmers, and funeral directors holding a
24 license under this act or under prior laws of this State, giving the names of
25 such persons, their professional address and the number and nature of their
26 licenses.

1 11. Subject to the provisions of chapter four hundred thirty-nine of the
2 laws of one thousand nine hundred and forty-eight, the board may appoint an
3 agent whose title shall be "inspector of the State Board of Mortuary Science
4 of the State of New Jersey," and the board may remove such agent at any
5 time. Such agent shall, during his continuance in office, be authorized to serve
6 and execute any process issued by any court of record under the provisions
7 of this act and shall also have power to serve any papers or process issued by
8 the board or any officer or member thereof under authority of this act and
9 shall also have power to enter the mortuary, office or establishment, or place
10 of practice of any practitioner of mortuary science, embalmer, or funeral

11 director or any mortuary office or establishment, or place where embalming or
12 undertaking is carried on, for the purpose of inspecting the premises and the
13 license and registration of practitioners of mortuary science, embalmers, and
14 funeral directors operating therein. The appointment of such agent shall
15 not be subject to the provisions of Title 11 of the Revised Statutes of this
16 State and he shall be paid such compensation as the board may determine.

1 12. Subject to the provisions of chapter four hundred thirty nine, of the
2 laws of one thousand nine hundred and forty-eight, the board may engage
3 the services of such assistants and employees as may be necessary to carry
4 out the provisions of this act. Such assistants and employees shall not be
5 subject to the provisions of Title 11 of the Revised Statutes of this State
6 and the board shall fix and pay the compensation of its assistants and em-
7 ployees.

1 13. A quorum of the board shall consist of a majority of the members
2 thereof and the board may act in all cases by a vote of the majority of those
3 present except that no license shall be revoked or suspended unless a majority
4 of the whole board vote in favor of such revocation or suspension. In the
5 absence or in case of the incapacity of any officer of the board, the board
6 may designate any other member of the board to fulfill the duties of the
7 absent or incapacitated officer for the time being.

1 14. The members of the board shall receive twenty-five dollars per diem
2 for time spent in discharge of their duties and in addition shall be entitled
3 to have and receive their necessary traveling expenses.

1 15. All fees received under the provisions of this law shall be col-
2 lected by the secretary of the board and shall be accounted for, disposed of
3 or used as provided by law.

1 16. No person shall engage in the practice of mortuary science, embalm-
2 ing or funeral directing, unless he shall have been duly licensed so to do, by
3 the board, under the provisions of this act or under the provisions of any
4 prior law of this State and unless such license is unrevoked and in full force

5 and effect; *provided*, that this shall not apply to a registered trainee working
6 under the direct supervision of a practitioner of mortuary science.

1 17. Except as provided in section twenty-one of this act, from and after
2 July first, one thousand nine hundred and fifty-two, the board shall grant
3 only a single license as practitioner of mortuary science to any applicant,
4 and any person shall hold a license as a practitioner of mortuary science is-
5 sued under the provisions of this act before being permitted to practice
6 mortuary science or embalming or funeral directing in this State.

1 18. (a) Except as hereinafter provided in section twenty-one of this act,
2 every person desiring to enter into the practice of mortuary science on and
3 after July first, one thousand nine hundred and fifty-two, before being li-
4 censed by the board so to do:

5 (1) Shall have passed an examination to be conducted by the board
6 to determine his qualifications and fitness therefor. Such examination,
7 the scope, character and content of which shall be determined by the
8 board, shall be the same for all candidates at each examination, and shall
9 include the following subjects: anatomy; physiology; pathology; chem-
10 istry; disinfection; hygiene; sanitary science; bacteriology; dissection;
11 the care, preservation, embalming, transportation, burial or disposal of
12 dead human bodies, including those dead as a result of contagious and in-
13 fectionous diseases; the signs of death and the manner in which death may
14 be determined; laws and rules governing vital statistics and the prepara-
15 tion and transportation for burial of dead human bodies; the provisions
16 of this act and of the rules and regulations adopted by the board; pro-
17 fessional ethics; mortuary accounting; and such other subjects as the
18 board may determine, by rule or regulation, to be necessary, proper or
19 reasonably calculated to establish the qualifications and fitness of the
20 applicant. Such examinations shall be in writing and shall be held at
21 least once in each year, and oftener if the board shall so determine by
22 rule or regulation, at such times and places as may be fixed by the board.
23 In addition to the written examination herein provided for, the examina-

24 tion of each applicant shall include, wherever possible, an actual dem-
25 onstration on a cadaver of the embalming proficiency and qualifica-
26 tions of the applicant;

27 (2) Shall have completed three years of practical training and ex-
28 perience as a registered trainee in regular, steady, bona fide fulltime serv-
29 ice of a grade and character satisfactory to the board, in the State of
30 New Jersey, with a person duly licensed as a practitioner of mortuary
31 science under this act or as both an embalmer and funeral director
32 under any prior law of this State and whose annual case volume shall be
33 equal to at least fifty cases for each registered trainee in his service;
34 except that a person who has satisfactorily completed one academic
35 year of instruction in a college or university approved by the board or
36 who has satisfactorily completed two academic years of instruction in a
37 school of mortuary science approved by the board need only have com-
38 pleted two years of practical training and experience as a registered
39 trainee. Not more than two registered trainees shall be registered con-
40 currently under any licensed person. The board is authorized and em-
41 powered to prescribe rules and regulations to insure that each trainee re-
42 ceives satisfactory and efficient training and experience which may pro-
43 vide for the periods that may be credited toward the required year of
44 training and experience, the nature, character and extent of the services
45 to be performed by the trainee, for such practical and actual experience
46 in mortuary science and assisting in the same as it shall determine and
47 for the making of such reports by the trainee and by the licensee with
48 whom he is registered as may be advisable and for such other qualifica-
49 tions in the applicant as may be reasonably calculated to insure and
50 protect the public health, morals, safety and welfare;

51 (3) Shall have, upon commencing his period of training and experi-
52 ence as provided in subdivision (a) (2) of this section registered as a
53 trainee with the board, upon a form to be provided by the board, and
54 has paid to the board a registration fee of fifty dollars (\$50.00), and
55 has received from the board a certificate as a registered trainee;

(4) Shall have been a resident of the State of New Jersey continuously during the period of his training and experience; and,

(5) Shall have passed his twenty-first birthday.

(b) An applicant who meets the requirements of section nineteen of this act shall be admitted to the examinations prescribed in subdivision (a) (1) of this section but a license to enter into the practice of mortuary science shall not be issued or granted to any such applicant by the board unless and until such applicant has completed the period of practical training and experience as a registered trainee required by subdivision (a) (2) of this section.

19. The board shall admit to examination or re-examination any applicant who pays a fee of fifty dollars (\$50.00) for the initial examination and a fee of ten dollars (\$10.00) for each re-examination. Each applicant, before being admitted to an examination, shall first submit to the board evidence verified by oath and satisfactory to the board that:

(a) He is a citizen of the United States and has been a resident of the State of New Jersey for a period of at least six months prior to the date of the examination;

(b) He is of good moral character;

(c) He has satisfactorily completed a regular four-year high school course, or its equivalent, as determined by the State Board of Education and at least one academic year of instruction in a school of mortuary science approved by the board.

20. If an applicant fails on the first examination, he may have one or more but not exceeding three additional examinations, which shall be taken within a period of five years immediately following the completion of his instruction in a school of mortuary science but not thereafter. If an applicant fails to pass four examinations, he shall not thereafter be permitted to apply for a license under this act. The board may, by rule or regulation, extend the period of time within which an applicant to examination shall take his examination as provided in this section; *provided, however*, that such ex-

9 tension of time may be granted only to applicants whose period of training
10 and experience as registered trainees or whose period of instruction in an
11 approved school of mortuary science is interrupted by active duty in the
12 military service of the United States.

13 21. (a) Until July first, one thousand nine hundred and fifty-seven, the
14 board shall also hold examinations for licenses as embalmers and for li-
15 censes as funeral directors in the manner provided by chapter seven of Title
16 45 of the Revised Statutes, as amended or supplemented, and the rules and
17 regulations promulgated thereunder and such re-examinations as may be
18 necessary thereafter, but no applicant shall be admitted to any examination
19 after failing to pass four examinations. The board shall admit to any such
20 examination any person, who at the time this act shall take effect shall be
21 duly registered as an apprentice for license as embalmer or as an apprentice
22 for license as a funeral director, as the case may be, and shall otherwise be
23 qualified in accordance with chapter seven of Title 45 of the Revised Statutes,
24 as amended or supplemented, and the rules and regulations promulgated
25 thereunder. The board shall issue a license as embalmer or a license as fu-
26 neral director to those who shall so qualify and pass such an examination
27 and the board shall issue a license as embalmer and funeral director to those
28 who shall so qualify. Any such license shall entitle the licensee to practice
29 as an embalmer, a funeral director, or as an embalmer and funeral director,
30 as the case may be, in accordance with the provisions and limitations of
31 chapter seven of Title 45 of the Revised Statutes, as amended or supple-
32 mented, and under the provisions and limitations of this act.

33 (b) The board may, by rule or regulation, extend the date for the hold-
34 ing of examinations for licenses as embalmers and for licenses as funeral di-
35 rectors as provided in paragraph (a) of this section; *provided, however*, that
36 an extension of such date may be granted only to applicants whose period
37 of apprenticeship as a registered apprentice or whose course in an approved
38 school of embalming and funeral management is interrupted by active duty in
39 the military service of the United States.

1 22. All licenses and renewals thereof issued pursuant to the provisions
2 of this act shall be signed by the members of the board and shall have the
3 seal of the board affixed thereto, and shall expire and terminate on the first
4 day of September next following the date of their issue, unless sooner re-
5 voked and cancelled.

1 23. Any person holding a license or licenses under this act or under any
2 prior law of this State may have the same renewed upon making and filing
3 with the board an application therefor upon forms provided by the board and
4 upon payment of a renewal fee of ten dollars (\$10.00); *provided*, that any
5 person neglecting or failing to have his license renewed, as above, may have
6 the same renewed by making application therefor during the six months fol-
7 lowing the expiration date upon payment of a revival and renewal fee of fifty
8 dollars (\$50.00).

1 24. Every individual, partnership, or corporation which operates or
2 maintains within this State a mortuary or which in the usual and regular
3 course of his or its practice makes use of a mortuary owned, operated,
4 or maintained by another shall annually apply to the board for a certifi-
5 cate of registration for each mortuary operated, maintained, or used by the
6 applicant and shall report under oath any facts requested by the board, and
7 such individual, partnership, or corporation shall pay an annual registra-
8 tion fee of twenty dollars (\$20.00) for each such mortuary. Upon verifi-
9 cation of the statements thus reported and the receipt of the requisite fee,
10 the board shall issue a certificate of registration which shall bear date of
11 January first for the year of issue and shall expire on December thirty-
12 first of such year. No mortuary shall be operated, maintained, or used at
13 any location by any person, firm or corporation at any location not speci-
14 fied in a certificate of registration issued under this section.

1 25. Any person now entitled to practice embalming or funeral directing
2 or both under the provisions of any prior law of the State of New Jersey
3 shall continue to be entitled to practice or engage in the same notwith-
4 standing the enactment of this act, and the validity of any license, or re-

5 newals thereof, to practice embalming or funeral directing, or both, under
6 any such prior law, shall not be affected by the enactment of this act, but
7 all such persons shall in all other respects be subject to the provisions of
8 this act.

9 Any person who, on the effective date of this act, holds either a funeral
10 director's license or an embalmer's license from this State, or both, shall
11 be entitled to a mortuary science license under this act, without any exam-
12 ination, upon the payment to the board of a fee of five dollars (\$5.00).

1 26. (a) No corporation shall carry on, or continue to carry on, or be
2 authorized to carry on or to continue to carry on or hold itself out, or to
3 continue to hold itself out as carrying on, the practice of mortuary science,
4 embalming, or funeral directing; except that any corporation which was on
5 March twenty-eighth, nineteen hundred twenty-nine, authorized under ear-
6 lier laws of this State to carry on the practice of embalming or funeral di-
7 recting in such a way that, under the law, its right to do so could not have
8 been entirely forbidden on March twenty-eighth, nineteen hundred twenty-
9 nine, may continue such practice under such reasonable rules and regula-
10 tions as the board may determine with respect to the management and
11 control of the actual practice of mortuary science, embalming or funeral
12 directing by persons holding licenses granted by the board and with respect
13 to such other matters as the board may determine.

14 (b) No corporation permitted under the laws of this State to carry on
15 the practice of embalming or funeral directing shall change its corporate
16 name except to that of a person or persons duly licensed to practice mor-
17 tuary science, embalming, or funeral directing under the provisions of this
18 act or under the provisions of any prior law of this State.

1 27. No partnership shall carry on or continue to carry on, or be au-
2 thorized to carry on or continue to carry on or hold itself out, or con-
3 tinue to hold itself out, as carrying on the practice of mortuary science,
4 embalming or funeral directing unless the practice is carried on under a
5 firm name which shall consist of the surnames of one or more members of

6 the partnership, and unless all members of the partnership are duly licensed
7 as practitioners of mortuary science, embalmers or funeral directors; *pro-*
8 *vided, however,* that any partnership for the practice of embalming or fu-
9 neral directing, or both, in existence and actually engaged in practice on
10 July first, one thousand nine hundred and fifty-two, in accordance with the
11 provisions of chapter seven of Title 45 of the Revised Statutes, as amended
12 or supplemented, each of the members of which are duly licensed as either
13 an embalmer or funeral director under any prior law of this State, may con-
14 tinue such practice under the firm name in use on that date until the death
15 or retirement or withdrawal from the partnership, whichever shall first oc-
16 cur, of any member thereof.

17 Nothing herein contained shall prohibit a licensed practitioner of mor-
18 tuary science, embalmer or funeral director from acting as an employee of
19 a partnership complying with the provisions of this section, *provided the*
20 name of such employee does not appear as part of the firm name.

1 28. The license of any practitioner of mortuary science or of any em-
2 balmer and funeral director, or either, shall terminate upon his decease; but
3 upon application to the board the practice of a deceased licensee who, at
4 the time of his death, was practicing under his own name and not as a
5 member of a partnership or as an officer, agent or employee of a corpora-
6 tion or as an employee of a partnership or of another licensee, may be con-
7 tinued for liquidation purposes and for the benefit of the widow or persons
8 interested in the estate of the deceased and the name of the deceased licensee
9 may be used for a period of not more than five years from the date of death
10 of the licensee or from the date this act becomes effective where such li-
11 censee has died prior to such effective date; *provided,* the practice is carried
12 on under the supervision of a duly licensed practitioner of mortuary science
13 or a duly licensed embalmer and funeral director in such manner as the board
14 shall determine by rules and regulations.

1 29. Except as otherwise provided in this act, no licensed person shall
2 carry on, or be authorized to carry on or continue to carry on or hold himself

3 out, or continue to hold himself out, as carrying on the practice of mortuary
4 science, embalming or funeral directing as an officer, agent or employee of a
5 corporation or under the name of a corporation, or under a firm or partner-
6 ship name, or under an assumed name, or otherwise than under his own
7 name.

1 30. No person shall operate, maintain or use a mortuary within this
2 State unless:

3 (a) He, they or it shall annually register with the board in accord-
4 ance with the provisions of section twenty-four of this act;

5 (b) The certificate of registration issued by the board shall be conspicu-
6 ously displayed within the establishment;

7 (c) The licenses of the individual owner, of all partners, or of the man-
8 ager of the establishment in all cases where the establishment is not man-
9 aged by a licensed individual owner or licensed partners, shall be conspicu-
9A ously displayed within the establishment;

10 (d) It shall be under the immediate and personal supervision, direction,
11 management, and control of a person duly licensed as a practitioner of mortu-
12 ary science, under the provisions of this act, or of a person duly licensed as a
13 funeral director under the provisions of this act or of any prior law of this
14 State; and all funeral directing shall be under the immediate and personal
15 supervision, direction, management, and control of a person duly licensed as a
16 practitioner of mortuary science, under the provisions of this act, or of a
17 person duly licensed as a funeral director under the provisions of this act or
18 of any prior law of this State;

19 (e) Its construction, maintenance and operation shall conform to the rules
20 and regulations of the board promulgated to safeguard and promote the public
21 health, safety, morals and welfare.

1 31. After notice and hearing as hereinafter provided, the board may refuse
2 to grant, or may suspend or revoke any license to practice mortuary science
3 or to practice embalming and funeral directing, or either of them, in this
4 State, if it determines that the holder of any such license has been guilty of
5 any of the following acts or omissions:

6 (a) The employment of fraud and deception in applying for a license or
7 a renewal of a license or in the passing of an examination provided for in
8 this act or in any rule or regulation of the board;

9 (b) The violation of any provision of this act;

10 (c) The violation of any rule or regulation of the board adopted pur-
11 suant to the provisions of this act;

12 (d) Violation of any State law or municipal or county ordinance or regu-
13 lation affecting the handling, custody, care or transportation of dead human
14 bodies;

15 (e) Assigning, loaning, selling or fraudulently obtaining any license, rec-
16 ord, or certificate for funeral directing or for operating or maintaining a
17 mortuary, or aiding or abetting therein;

18 (f) Gross incompetence;

19 (g) Chronic and persistent inebriety, or the habitual use of narcotics;

20 (h) Conviction of a crime involving moral turpitude; or where any li-
21 censee or applicant for a license has pleaded nolo contendere or non vult to
22 any indictment, allegation or complaint, alleging the commission of a crime
23 involving moral turpitude. The record of conviction or the entry of such a
24 plea in any court of this State or any other State, or in any of the courts of
25 the United States shall be sufficient warrant for the revocation or suspension
26 of a license;

27 (i) Conviction in a court of competent jurisdiction of a high misde-
28 meanor;

29 (j) Unethical or unprofessional conduct or engaging in the practice of
30 mortuary science or the practice of embalming and funeral directing, or
31 either of them, in a manner which is prejudicial to the public health, safety,
32 morals and welfare;

33 (k) False, fraudulent, or misleading advertising;

34 (l) Any conduct which is of a character likely to deceive or defraud the
35 public;

36 (m) The performance of any fraudulent act in the conduct of his prac-
37 tice.

1 32. No person shall inject any fluid or substance into any cavity or
2 artery of the body of any person who has come to a sudden, violent or un-
3 timely death, or of any person found dead, the manner of whose death is not
4 known, until permission is obtained from the medical examiner, county
5 physician, or the coroner of the county in which the dead body lies. No
6 person shall employ, for the purpose of the practice of mortuary science,
7 funeral directing or embalming, any arsenical or other poisonous agent
8 which may by its presence in the viscera prevent the detection of criminal
9 usage of the poisonous agent before the death of the individual occurred;
10 but this provision shall not prohibit the use by any associtaion incorporated
11 under article four of chapter nine of Title 45 of the Revised Statutes, of any
12 substance for the preservation of dead bodies which have legally come into
13 its possession.

1 33. The sale or use for embalming purposes within the State of New
2 Jersey of any fluid containing arsenic, zinc, mercury, copper, lead, silver,
3 antimony, chloral, or cyanogen, or any compound containing any of said
4 substances, or any poisonous alkaloid is prohibited. The board shall have
5 power, by rules and regulations, to provide for appropriate tests to be made
6 of all brands of embalming compounds sold or used within this State or in-
7 tended for sale or use within this State, and shall disapprove for such sale
8 or use any such compounds that, upon such tests, are determined to contain
9 any substance herein prohibited. The board shall have power to publish a
10 list of such compounds that, upon such tests, are determined to comply with
11 the provisions of this section. Nothing in this section contained shall pro-
12 hibit the use by any association incorporated under article four of chapter
13 nine of Title 45 of the Revised Statutes, of any substance for the preserva-
14 tion of dead bodies which have legally come into its possession.

1 34. Every praitioner of mortuary science, embalmer or funeral director
2 shall report to the local health officer all contagious cases in which he may
3 be called, within twelve hours after death or as soon as may be after being
4 called.

1 35. Whenever the board shall have reason to believe that any person to
2 whom a license has been issued is guilty of any of the acts or omissions
3 specified in sections thirty-one to thirty-four, inclusive, of this act, or when-
4 ever written complaint is filed with the board charging a person licensed as
5 an embalmer, funeral director, or practitioner of mortuary science with any
6 of said acts or omissions, it shall be the duty of the said board to conduct an
7 investigation and if from such investigation it shall appear to the board that
8 there is reasonable ground for belief that the accused may be guilty of the
9 violations charged, a time and place shall be set by the board for a hearing
10 to determine whether or not the license of the accused shall be revoked.
11 Complaints may be preferred by any person or the board may on its own
12 motion direct its secretary to prefer a complaint.

1 36. No hearing shall be held by the board until the accused has been
2 furnished with a statement of the complaint and charges against him and a
3 notice of the time and place of hearing thereof, the furnishing of said
4 notice and the charges to be given said accused at least fifteen days prior to
5 the date of hearing. The accused may be present at such hearing in person
6 or by counsel or both to disprove the charges made against him. If upon
7 such hearing the board finds the charges are true, it may revoke or suspend
8 the license of the accused. A stenographic report of each proceeding to
9 revoke or suspend a license shall be made at the expense of the board, and
10 a transcript thereof kept in its files.

1 37. Any person who has been denied a license renewal, or whose license
2 has been suspended or revoked, or is otherwise aggrieved by any ruling or
3 decision of the board, may appeal therefrom to the Appellate Division of
4 the Superior Court.

1 38. The president or any member of the board may administer oaths
2 and shall have power to issue subpoenas, to compel the attendance of licen-
3 sees, applicants for licenses, and witnesses and the production of books,
4 papers and records before the board in any inquiry or proceedings which
5 may be instituted by it or be pending before it under this act, and such

6 subpoenas may be served by any person eighteen or more years of age, and
7 the same witness fees shall be paid as in the cases of subpoenas issued out of
8 the Superior Court. Service of a subpoena shall be made by delivering a
9 copy thereof to the person named and by tendering to him the fee for one
10 day's attendance and such mileage as may be allowed by law.

1 39. If any person who, having been personally served with a subpoena is-
2 sued by the board and given or tendered the fees prescribed herein, shall,
3 without legal excuse, fail to appear before the board, or fail to produce rec-
4 ords or documents required to be produced by the subpoena, or fail or refuse
5 to testify or to answer any proper question, the board may apply to the
6 Superior Court, or to a judge thereof, who shall have the power of the court
7 for that purpose, upon proof by affidavits of the facts, for an order return-
8 able in not less than two or more than ten days directing such person to
9 show cause before the court or the judge thereof who made the order, or to
10 any other judge of the court, why he or she should not comply with the sub-
11 poena or order of the board, and upon the return of such order the court or
12 judge before whom the matter may come on for hearing shall examine un-
13 der oath the person whose testimony may be relevant and such person shall
14 be given an opportunity to be heard, and if the court or judge determines
15 that such person refused, without legal excuse, to obey the command of such
16 subpoena to be examined or to answer a proper question or to produce a
17 record or documents which he or she was ordered to produce, said court or
18 judge may order said person to comply forthwith with the subpoena or order
19 of the board; and any failure to obey such order of the court or judge may
20 be punished by the court or judge as a contempt of such Superior Court.

1 40. (a) Any person, firm or corporation who shall violate any of the pro-
2 visions of this act, or any rule or regulation of the State Board of Mortuary
3 Science of New Jersey except where a penalty is otherwise herein specifically
4 provided, shall be subject to a penalty of two hundred dollars (\$200.00) for
5 for the first offense and to a penalty of five hundred dollars (\$500.00) for
6 a second and each subsequent offense to be sued for and recovered in the
7 name of the State Board of Mortuary Science of New Jersey.

8 (b) Jurisdiction of suits and proceedings to collect and enforce such pen-
9 alties is hereby conferred upon every County Court and every county dis-
10 trict court, and the practice and procedure in such suits and proceedings
11 shall be such as is and shall be provided for by rules promulgated by the
12 Supreme Court of New Jersey in respect of such suits and proceedings and
13 the provisions of chapter fifty-eight of Title 2A of the New Jersey Statutes.
14 If judgment be rendered against the defendant, the plaintiff shall recover
15 its costs which shall be those as are taxed in other actions of a civil nature in
16 the court in which the judgment is rendered. If judgment be rendered
17 against the defendant in any suit or proceeding brought under
18 section and the defendant refuses or fails to pay forthwith the
19 amount of the judgment rendered against him, the court in which
19a the suit or proceeding was brought shall cause the defendant to be
20 committed to the county jail for a period of not less than thirty days nor
21 more than ninety days in case of a first conviction, and for a period of not
22 less than sixty days nor more than one hundred and sixty days for each
23 subsequent conviction.

1 41. The board shall provide for and hold each year at the time and
2 place of the meeting of the New Jersey State Funeral Directors' Associa-
3 tion, a course of lectures and practical demonstrations on public health and
4 the latest and improved methods of embalming, sanitation and disinfecting
5 for the benefit of licensees.

6 The president and secretary of the board and the president and secre-
7 tary of the New Jersey State Funeral Directors' Association shall constitute
8 a committee for the selection of lecturers and demonstrators. The commit-
9 mittee shall have full authority in the selection of said lecturers and demon-
10 strators and shall fix the compensation to be paid, and the expense of said
11 course of lectures and demonstrations shall be paid out of the funds of the
12 board.

1 42. The board shall report to the State Department of Health the name
2 and residence of every person to whom it may issue a license and shall, be-

3 fore January first, in each year, forward to the registrar of vital statistics
4 of each municipality a printed list duly verified, containing the names of all
5 licensed practitioners of mortuary science, funeral directors and embalmers
6 and such list shall be kept on file in such office. The board shall issue to each
7 person granted a license an identification card stating that the holder there-
8 of has received a license and is carrying on the practice of mortuary science,
9 or of funeral directing or embalming. The proper holder of such a card shall
10 have the same right to carry on the practice of mortuary science, or of
11 funeral directing or embalming as those whose names appear on file in the
12 office of the registrar of vital statistics in each municipality.

1 43. The rules and regulations adopted by the board pursuant to this act
2 shall be printed and copies thereof shall be sent by the board to any person
3 licensed under this act or under any prior law, who makes application there-
4 for, and, upon payment of a fee of one dollar to any other person who
5 makes application therefor, and shall also be open for inspection at the office
6 of the board. Every license and renewal granted under this act shall con-
7 tain a statement to the effect that the practice licensed must be conducted in
8 accordance with the law and with the rules and regulations of the board
9 adopted in pursuance thereto, and that a copy of such rules and regula-
10 tions may be obtained upon request at the office of the board.

1 44. In the event that any section, paragraph, clause, sentence or part
2 of this act shall for any reason be adjudged to be invalid by any court of
3 competent jurisdiction, such judgment shall not impair the remainder there-
4 of, but shall be confined strictly in its operation to the particular clause, sec-
5 tion, paragraph or part thereof so held to be invalid.

1 45. All acts and parts of acts inconsistent with the provisions of this
2 act are hereby repealed.

1 46. This act shall take effect July first, one thousand nine hundred and
2 fifty-two.

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 253

STATE OF NEW JERSEY

INTRODUCED MARCH 17, 1952

By Mr. CLAPP

Referred to Committee on Public Health

AN ACT to revise and codify the law relating to the profession of mortuary science, embalming and funeral directing, creating a State Board of Mortuary Science of New Jersey and defining its powers and duties; authorizing the licensing of practitioners of mortuary science and of embalmers and funeral directors to practice their profession; providing for the registration and examination of trainees; prescribing rules and regulations governing the profession and to fix penalties for violations of the provisions of this act and of said rules and regulations.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. This act shall be known as the "Mortuary Science Act."

1 2. In the interest of, and to better secure, the public health, safety and
2 welfare and for the more efficient administration and supervision of sani-
3 tary codes and health regulations, the practice of mortuary science and
4 the practice of embalming and funeral directing are hereby declared to be
5 a profession.

1 3. As used in this act:

2 (a) "Board" means the State Board of Mortuary Science of New
3 Jersey.

4 (b) "Embalming" means the disinfecting or preservation of a dead
5 human body, entirely or in part by the use of chemical substances, fluids

6 or gases in the body, or by introduction of the same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities.

9 (c) "Funeral directing" means (1) the engaging in or conducting or holding one's self out as being engaged in or conducting the preparation (other than embalming) for burial or disposal and the direction or supervision of burial or disposal of dead human bodies; or (2) maintaining, using or operating a mortuary; or (3) in connection with one's name or mortuary using the words "mortician" or "funeral director" or "undertaker" or any other words or title of like import or signification.

16 (d) "Mortuary science" means embalming and funeral directing, as the same are herein defined.

18 (e) "Embalmer" means a qualified person who practices or engages in embalming, as the same is herein defined.

20 (f) "Funeral director" includes "undertaker" and means a qualified person who practices or engages in funeral directing, as the same is herein defined.

23 (g) "Practitioner of mortuary science" means a qualified person who practices or engages in mortuary science, as the same is herein defined and who (1) shall be licensed under the provisions of this act as a practitioner of mortuary science, or (2) holds a license as both an embalmer and a funeral director under the provisions of any prior law or laws of this State, or (3) holds a license as an embalmer under the provisions of any prior law or laws of this State and shall be licensed under the provisions of section twenty-one of this act as a funeral director, or (4) holds a license as a funeral director under the provisions of any prior law or laws of this State and shall be licensed under the provisions of section twenty-one of this act as an embalmer.

34 (h) "Mortuary" means any place or premises devoted to or used in the care and preparation for burial, disposition, or transportation of dead human bodies, or any place where any person or persons shall hold forth

37 that he, she, or they are engaged in the practice of the profession of mor-
38 tuary science, embalming or funeral directing.

39 (i) "Registered trainee" means a person who is duly registered with
40 the board and who is engaged in the State of New Jersey in learning to
41 practice as a practitioner of mortuary science under the personal instruc-
42 tion and supervision of a person duly licensed as a practitioner of mortu-
43 ary science and who has an annual case volume as hereinafter provided in
44 section eighteen of this act.

1 4. There is hereby created in the Division of Professional Boards in
2 the Department of Law and Public Safety a State Board of Mortuary
3 Science of New Jersey, which board shall consist of five members, each
4 of whom shall be a citizen of the United States and a resident of the State
5 of New Jersey, duly licensed as a practitioner of mortuary science and
6 shall have had a minimum of five consecutive years of experience and
7 practice as a practitioner of mortuary science in this State immediately
8 preceding his appointment. Subject to the provisions of section 45:1-2 of
9 the Revised Statutes, members of the board shall be appointed annually by
10 the Governor for a term of three years. Each member shall hold office after
11 the expiration of his term of office until his successor shall be duly ap-
12 pointed and qualified. Vacancies occurring by reason of the expiration of
13 term of office shall be filled by the Governor in the calendar year in which
14 any such vacancy occurs for a term of three years from July first of the
15 year of appointment. Vacancies occurring by reason of the failure or neg-
16 lect of the Governor to make appointments upon the expiration of terms
17 of office as hereinabove provided and vacancies occurring for any other
18 reason whatsoever shall be filled by the Governor for the unexpired term
19 only. Members of the Board of Embalmers and Funeral Directors holding
20 office at the time this act becomes effective shall continue in office as mem-
21 bers of the State Board of Mortuary Science of New Jersey for the re-
22 mainder of the terms for which they were severally appointed.

1 5. The records of the present Board of Embalmers and Funeral Directors
2 shall be delivered to the State Board of Mortuary Science of New Jersey
3 created under this act.

1 6. Each member of the board, before entering upon his duties and within
2 thirty days after receiving notice of his appointment, shall take and subscribe
3 an oath of office such as is provided for other State officials. Upon the failure
4 of a member of the board to take the oath of office as provided herein, a
5 vacancy in the membership of the board shall then exist which shall be filled
6 by the Governor as provided in section four. The board shall annually select
7 from its membership a president and secretary, who shall serve until their
8 successors shall be elected and qualified. The board is authorized and em-
9 powered to adopt and promulgate such rules and regulations, not inconsistent
10 with this act, as it may deem expedient for the transaction of its business
11 and for the purpose of efficiently enforcing the provisions of this act.

1 7. The board is authorized and empowered to adopt such rules and
2 regulations, not inconsistent with this act, as shall be reasonably proper and
3 advisable for the promotion or improvement of the standards of service,
4 protection and practice to be followed in the profession of mortuary science,
5 embalming and funeral directing in the State of New Jersey and for and in
6 the interest, preservation and improvement of the public health, morals, safety
7 and welfare.

1 8. The board shall adopt a seal, of which the secretary shall have the
2 care and custody, and all courts of this State shall take judicial notice of such
3 seal.

1 9. The president of the board shall preside at all meetings and he shall
2 exercise and perform all duties and functions incidental to the office of presi-
3 dent of the board.

1 10. The secretary shall keep a record of all proceedings of the board,
2 shall exercise and perform all duties and functions incidental to his office and
3 such other duties and functions as may be assigned by the board. He shall
4 receive such compensation for his services and shall give such bond for the
5 faithful performance of his duties as the board may determine.

6 The secretary of the board shall keep a record in which shall be
7 registered the name and professional address of every person to whom
8 licenses have been granted in accordance with the provisions of this act or in
9 accordance with the provisions of prior laws of this State, the number and
10 date of such license and the date of each renewal thereof.

11 The secretary shall, whenever requested so to do, certify over the seal of
12 the board, whether the records kept by the board show or fail to show a license
13 to carry on the practice of mortuary science or of embalming or funeral
14 directing, or both, or the issuance of any renewal of any such licenses or
15 whether any person has or has not a license in full force and effect. The fee
16 for any such certificate shall be one dollar (\$1.00). Any such certificate,
17 whether made by the secretary upon such request or for use in proceedings
18 before the board or in which the board may be a party, shall be prima facie
19 evidence of the facts therein stated.

20 In the month of January of each and every year the secretary of said
21 board shall supply to each licensed practitioner of mortuary science, to each
22 licensed embalmer and to each licensed funeral director a list of all practi-
23 tioners of mortuary science, embalmers, and funeral directors holding a
24 license under this act or under prior laws of this State, giving the names of
25 such persons, their professional address and the number and nature of their
26 licenses.

1 11. Subject to the provisions of chapter four hundred thirty-nine of the
2 laws of one thousand nine hundred and forty-eight, the board may appoint an
3 agent whose title shall be "inspector of the State Board of Mortuary Science
4 of the State of New Jersey," and the board may remove such agent at any
5 time. Such agent shall, during his continuance in office, be authorized to serve
6 and execute any process issued by any court of record under the provisions
7 of this act and shall also have power to serve any papers or process issued by
8 the board or any officer or member thereof under authority of this act and
9 shall also have power to enter the mortuary, office or establishment, or place
10 of practice of any practitioner of mortuary science, embalmer, or funeral

11 director or any mortuary office or establishment, or place where embalming or
 12 undertaking is carried on, for the purpose of inspecting the premises and the
 13 license and registration of practitioners of mortuary science, embalmers, and
 14 funeral directors operating therein. The appointment of such agent shall
 15 not be subject to the provisions of Title 11 of the Revised Statutes of this
 16 State and he shall be paid such compensation as the board may determine.

1 12. Subject to the provisions of chapter four hundred thirty nine, of the
 2 laws of one thousand nine hundred and forty-eight, the board may engage
 3 the services of such assistants and employees as may be necessary to carry
 4 out the provisions of this act. Such assistants and employees shall not be
 5 subject to the provisions of Title 11 of the Revised Statutes of this State
 6 and the board shall fix and pay the compensation of its assistants and em-
 7 ployees.

1 13. A quorum of the board shall consist of a majority of the members
 2 thereof and the board may act in all cases by a vote of the majority of those
 3 present except that no license shall be revoked or suspended unless a majority
 4 of the whole board vote in favor of such revocation or suspension. In the
 5 absence or in case of the incapacity of any officer of the board, the board
 6 may designate any other member of the board to fulfill the duties of the
 7 absent or incapacitated officer for the time being.

1 14. The members of the board shall receive twenty-five dollars per diem
 2 for time spent in discharge of their duties and in addition shall be entitled
 3 to have and receive their necessary traveling expenses.

1 15. All fees received under the provisions of this law shall be col-
 2 lected by the secretary of the board and shall be accounted for, disposed of
 3 or used as provided by law.

1 16. No person shall engage in the practice of mortuary science, embalm-
 2 ing or funeral directing, unless he shall have been duly licensed so to do, by
 3 the board, under the provisions of this act or under the provisions of any
 4 prior law of this State and unless such license is unrevoked and in full force

5 and effect; *provided*, that this shall not apply to a registered trainee working
6 under the direct supervision of a practitioner of mortuary science.

1 17. Except as provided in section twenty-one of this act, from and after
2 July first, one thousand nine hundred and fifty-two, the board shall grant
3 only a single license as practitioner of mortuary science to any applicant,
4 and any person shall hold a license as a practitioner of mortuary science is-
5 sued under the provisions of this act before being permitted to practice
6 mortuary science or embalming or funeral directing in this State.

1 18. (a) Except as hereinafter provided in section twenty-one of this act,
2 every person desiring to enter into the practice of mortuary science on and
3 after July first, one thousand nine hundred and fifty-two, before being li-
4 censed by the board so to do:

5 (1) Shall have passed an examination to be conducted by the board
6 to determine his qualifications and fitness therefor. Such examination,
7 the scope, character and content of which shall be determined by the
8 board, shall be the same for all candidates at each examination, and shall
9 include the following subjects: anatomy; physiology; pathology; chem-
10 istry; disinfection; hygiene; sanitary science; bacteriology; dissection;
11 the care, preservation, embalming, transportation, burial or disposal of
12 dead human bodies, including those dead as a result of contagious and in-
13 fectionous diseases; the signs of death and the manner in which death may
14 be determined; laws and rules governing vital statistics and the prepara-
15 tion and transportation for burial of dead human bodies; the provisions
16 of this act and of the rules and regulations adopted by the board; pro-
17 fessional ethics; mortuary accounting; and such other subjects as the
18 board may determine, by rule or regulation, to be necessary, proper or
19 reasonably calculated to establish the qualifications and fitness of the
20 applicant. Such examinations shall be in writing and shall be held at
21 least once in each year, and oftener if the board shall so determine by
22 rule or regulation, at such times and places as may be fixed by the board.
23 In addition to the written examination herein provided for, the examina-

24 tion of each applicant shall include, wherever possible, an actual dem-
25 onstration on a cadaver of the embalming proficiency and qualifica-
26 tions of the applicant;

27 (2) Shall have completed three years of practical training and ex-
28 perience as a registered trainee in regular, steady, bona fide fulltime serv-
29 ice of a grade and character satisfactory to the board, in the State of
30 New Jersey, with a person duly licensed as a practitioner of mortuary
31 science under this act or as both an embalmer and funeral director
32 under any prior law of this State and whose annual case volume shall be
33 equal to at least fifty cases for each registered trainee in his service;
34 except that a person who has satisfactorily completed one academic
35 year of instruction in a college or university approved by the board or
36 who has satisfactorily completed two academic years of instruction in a
37 school of mortuary science approved by the board need only have com-
38 pleted two years of practical training and experience as a registered
39 trainee. Not more than two registered trainees shall be registered con-
40 currently under any licensed person. The board is authorized and em-
41 powered to prescribe rules and regulations to insure that each trainee re-
42 ceives satisfactory and efficient training and experience which may pro-
43 vide for the periods that may be credited toward the required year of
44 training and experience, the nature, character and extent of the services
45 to be performed by the trainee, for such practical and actual experience
46 in mortuary science and assisting in the same as it shall determine and
47 for the making of such reports by the trainee and by the licensee with
48 whom he is registered as may be advisable and for such other qualifica-
49 tions in the applicant as may be reasonably calculated to insure and
50 protect the public health, morals, safety and welfare;

51 (3) Shall have, upon commencing his period of training and experi-
52 ence as provided in subdivision (a) (2) of this section registered as a
53 trainee with the board, upon a form to be provided by the board, and
54 has paid to the board a registration fee of fifty dollars (\$50.00), and
55 has received from the board a certificate as a registered trainee;

(4) Shall have been a resident of the State of New Jersey continuously during the period of his training and experience; and,

(5) Shall have passed his twenty-first birthday.

(b) An applicant who meets the requirements of section nineteen of this act shall be admitted to the examinations prescribed in subdivision (a) (1) of this section but a license to enter into the practice of mortuary science shall not be issued or granted to any such applicant by the board unless and until such applicant has completed the period of practical training and experience as a registered trainee required by subdivision (a) (2) of this section.

19. The board shall admit to examination or re-examination any applicant who pays a fee of fifty dollars (\$50.00) for the initial examination and a fee of ten dollars (\$10.00) for each re-examination. Each applicant, before being admitted to an examination, shall first submit to the board evidence verified by oath and satisfactory to the board that:

(a) He is a citizen of the United States and has been a resident of the State of New Jersey for a period of at least six months prior to the date of the examination;

(b) He is of good moral character;

(c) He has satisfactorily completed a regular four-year high school course, or its equivalent, as determined by the State Board of Education and at least one academic year of instruction in a school of mortuary science approved by the board.

20. If an applicant fails on the first examination, he may have one or more but not exceeding three additional examinations, which shall be taken within a period of five years immediately following the completion of his instruction in a school of mortuary science but not thereafter. If an applicant fails to pass four examinations, he shall not thereafter be permitted to apply for a license under this act. The board may, by rule or regulation, extend the period of time within which an applicant to examination shall take his examination as provided in this section; *provided, however*, that such ex-

9 tension of time may be granted only to applicants whose period of training
10 and experience as registered trainees or whose period of instruction in an
11 approved school of mortuary science is interrupted by active duty in the
12 military service of the United States.

13 21. (a) Until July first, one thousand nine hundred and fifty-seven, the
14 board shall also hold examinations for licenses as embalmers and for li-
15 censes as funeral directors in the manner provided by chapter seven of Title
16 45 of the Revised Statutes, as amended or supplemented, and the rules and
17 regulations promulgated thereunder and such re-examinations as may be
18 necessary thereafter, but no applicant shall be admitted to any examination
19 after failing to pass four examinations. The board shall admit to any such
20 examination any person, who at the time this act shall take effect shall be
21 duly registered as an apprentice for license as embalmer or as an apprentice
22 for license as a funeral director, as the case may be, and shall otherwise be
23 qualified in accordance with chapter seven of Title 45 of the Revised Statutes,
24 as amended or supplemented, and the rules and regulations promulgated
25 thereunder. The board shall issue a license as embalmer or a license as fu-
26 neral director to those who shall so qualify and pass such an examination
27 and the board shall issue a license as embalmer and funeral director to those
28 who shall so qualify. Any such license shall entitle the licensee to practice
29 as an embalmer, a funeral director, or as an embalmer and funeral director,
30 as the case may be, in accordance with the provisions and limitations of
31 chapter seven of Title 45 of the Revised Statutes, as amended or supple-
32 mented, and under the provisions and limitations of this act.

33 (b) The board may, by rule or regulation, extend the date for the hold-
34 ing of examinations for licenses as embalmers and for licenses as funeral di-
35 rectors as provided in paragraph (a) of this section; *provided, however*, that
36 an extension of such date may be granted only to applicants whose period
37 of apprenticeship as a registered apprentice or whose course in an approved
38 school of embalming and funeral management is interrupted by active duty in
39 the military service of the United States.

1 22. All licenses and renewals thereof issued pursuant to the provisions
2 of this act shall be signed by the members of the board and shall have the
3 seal of the board affixed thereto, and shall expire and terminate on the first
4 day of September next following the date of their issue, unless sooner re-
5 voked and cancelled.

1 23. Any person holding a license or licenses under this act or under any
2 prior law of this State may have the same renewed upon making and filing
3 with the board an application therefor upon forms provided by the board and
4 upon payment of a renewal fee of ten dollars (\$10.00); *provided, that any*
5 *person neglecting or failing to have his license renewed, as above, may have*
6 *the same renewed by making application therefor during the six months fol-*
7 *lowing the expiration date upon payment of a revival and renewal fee of fifty*
8 *dollars (\$50.00).*

1 24. Every individual, partnership, or corporation which operates or
2 maintains within this State a mortuary or which in the usual and regular
3 course of his or its practice makes use of a mortuary owned, operated,
4 or maintained by another shall annually apply to the board for a certifi-
5 cate of registration for each mortuary operated, maintained, or used by the
6 applicant and shall report under oath any facts requested by the board, and
7 such individual, partnership, or corporation shall pay an annual registra-
8 tion fee of twenty dollars (\$20.00) for each such mortuary. Upon verifi-
9 cation of the statements thus reported and the receipt of the requisite fee,
10 the board shall issue a certificate of registration which shall bear date of
11 January first for the year of issue and shall expire on December thirty-
12 first of such year. No mortuary shall be operated, maintained, or used at
13 any location by any person, firm or corporation at any location not speci-
14 fied in a certificate of registration issued under this section.

1 25. Any person now entitled to practice embalming or funeral directing
2 or both under the provisions of any prior law of the State of New Jersey
3 shall continue to be entitled to practice or engage in the same notwith-
4 standing the enactment of this act, and the validity of any license, or re-

5 newals thereof, to practice embalming or funeral directing, or both, under
6 any such prior law, shall not be affected by the enactment of this act, but
7 all such persons shall in all other respects be subject to the provisions of
8 this act.

1 26. (a) No corporation shall carry on, or continue to carry on, or be
2 authorized to carry on or to continue to carry on or hold itself out, or to
3 continue to hold itself out as carrying on, the practice of mortuary science,
4 embalming, or funeral directing; except that any corporation which was on
5 March twenty-eighth, nineteen hundred twenty-nine, authorized under ear-
6 lier laws of this State to carry on the practice of embalming or funeral di-
7 recting in such a way that, under the law, its right to do so could not have
8 been entirely forbidden on March twenty-eighth, nineteen hundred twenty-
9 nine, may continue such practice under such reasonable rules and regula-
10 tions as the board may determine with respect to the management and
11 control of the actual practice of mortuary science, embalming or funeral
12 directing by persons holding licenses granted by the board and with respect
13 to such other matters as the board may determine.

14 (b) No corporation permitted under the laws of this State to carry on
15 the practice of embalming or funeral directing shall change its corporate
16 name except to that of a person or persons duly licensed to practice mor-
17 tuary science, embalming, or funeral directing under the provisions of this
18 act or under the provisions of any prior law of this State.

1 27. No partnership shall carry on or continue to carry on, or be au-
2 thorized to carry on or continue to carry on or hold itself out, or con-
3 tinue to hold itself out, as carrying on the practice of mortuary science,
4 embalming or funeral directing unless the practice is carried on under a
5 firm name which shall consist of the surnames of one or more members of
6 the partnership, and unless all members of the partnership are duly licensed
7 as practitioners of mortuary science, embalmers or funeral directors; *pro-*
8 *vided, however,* that any partnership for the practice of embalming or fu-

9 neral directing, or both, in existence and actually engaged in practice on
 10 July first, one thousand nine hundred and fifty-two, in accordance with the
 11 provisions of chapter seven of Title 45 of the Revised Statutes, as amended
 12 or supplemented, each of the members of which are duly licensed as either
 13 an embalmer or funeral director under any prior law of this State, may con-
 14 tinue such practice under the firm name in use on that date until the death
 15 or retirement or withdrawal from the partnership, whichever shall first oc-
 16 cur, of any member thereof.

17 Nothing herein contained shall prohibit a licensed practitioner of mor-
 18 tuary science, embalmer or funeral director from acting as an employee of
 19 a partnership complying with the provisions of this section, provided the
 20 name of such employee does not appear as part of the firm name.

1 28. The license of any practitioner of mortuary science or of any em-
 2 balmer and funeral director, or either, shall terminate upon his decease; but
 3 upon application to the board the practice of a deceased licensee who, at
 4 the time of his death, was practicing under his own name and not as a
 5 member of a partnership or as an officer, agent or employee of a corpora-
 6 tion or as an employee of a partnership or of another licensee, may be con-
 7 tinued for liquidation purposes and for the benefit of the widow or persons
 8 interested in the estate of the deceased and the name of the deceased licensee
 9 may be used for a period of not more than five years from the date of death
 10 of the licensee or from the date this act becomes effective where such li-
 11 censee has died prior to such effective date; *provided*, the practice is carried
 12 on under the supervision of a duly licensed practitioner of mortuary science
 13 or a duly licensed embalmer and funeral director in such manner as the board
 14 shall determine by rules and regulations.

1 29. Except as otherwise provided in this act, no licensed person shall
 2 carry on, or be authorized to carry on or continue to carry on or hold himself
 3 out, or continue to hold himself out, as carrying on the practice of mortuary
 4 science, embalming or funeral directing as an officer, agent or employee of a

5 corporation or under the name of a corporation, or under a firm or partner-
 6 ship name, or under an assumed name, or otherwise than under his own
 7 name.

1 30. No person shall operate, maintain or use a mortuary within this
 2 State unless:

3 (a) He, they or it shall annually register with the board in accord-
 4 ance with the provisions of section twenty-four of this act;

5 (b) The certificate of registration issued by the board shall be conspicu-
 6 ously displayed within the establishment;

7 (c) The licenses of the individual owner, of all partners, or of the man-
 8 ager of the establishment in all cases where the establishment is not man-
 9 aged by a licensed individual owner or licensed partners, shall be conspicu-
 9A ously displayed within the establishment;

10 (d) It shall be under the immediate and personal supervision, direction,
 11 management, and control of a person duly licensed as a practitioner of mortu-
 12 ary science, under the provisions of this act, or of a person duly licensed as a
 13 funeral director under the provisions of this act or of any prior law of this
 14 State; and all funeral directing shall be under the immediate and personal
 15 supervision, direction, management, and control of a person duly licensed as a
 16 practitioner of mortuary science, under the provisions of this act, or of a
 17 person duly licensed as a funeral director under the provisions of this act or
 18 of any prior law of this State;

19 (e) Its construction, maintenance and operation shall conform to the rules
 20 and regulations of the board promulgated to safeguard and promote the public
 21 health, safety, morals and welfare.

1 31. After notice and hearing as hereinafter provided, the board may refuse
 2 to grant, or may suspend or revoke any license to practice mortuary science
 3 or to practice embalming and funeral directing, or either of them, in this
 4 State, if it determines that the holder of any such license has been guilty of
 5 any of the following acts or omissions:

6 (a) The employment of fraud and deception in applying for a license or
7 a renewal of a license or in the passing of an examination provided for in
8 this act or in any rule or regulation of the board;

9 (b) The violation of any provision of this act;

10 (c) The violation of any rule or regulation of the board adopted pur-
11 suant to the provisions of this act;

12 (d) Violation of any State law or municipal or county ordinance or regu-
13 lation affecting the handling, custody, care or transportation of dead human
14 bodies;

15 (e) Assigning, loaning, selling or fraudulently obtaining any license, rec-
16 ord, or certificate for funeral directing or for operating or maintaining a
17 mortuary, or aiding or abetting therein;

18 (f) Gross incompetence;

19 (g) Chronic and persistent inebriety, or the habitual use of narcotics;

20 (h) Conviction of a crime involving moral turpitude; or where any li-
21 censee or applicant for a license has pleaded nolo contendere or non vult to
22 any indictment, allegation or complaint, alleging the commission of a crime
23 involving moral turpitude. The record of conviction or the entry of such a
24 plea in any court of this State or any other State, or in any of the courts of
25 the United States shall be sufficient warrant for the revocation or suspension
26 of a license;

27 (i) Conviction in a court of competent jurisdiction of a high misde-
28 meanor;

29 (j) Unethical or unprofessional conduct or engaging in the practice of
30 mortuary science or the practice of embalming and funeral directing, or
31 either of them, in a manner which is prejudicial to the public health, safety,
32 morals and welfare;

33 (k) False, fraudulent, or misleading advertising;

34 (l) Any conduct which is of a character likely to deceive or defraud the
35 public;

36 (m) The performance of any fraudulent act in the conduct of his prac-
37 tice.

32. No person shall inject any fluid or substance into any cavity or artery of the body of any person who has come to a sudden, violent or untimely death, or of any person found dead, the manner of whose death is not known, until permission is obtained from the medical examiner, county physician, or the coroner of the county in which the dead body lies. No person shall employ, for the purpose of the practice of mortuary science, funeral directing or embalming, any arsenical or other poisonous agent which may by its presence in the viscera prevent the detection of criminal usage of the poisonous agent before the death of the individual occurred; but this provision shall not prohibit the use by any association incorporated under article four of chapter nine of Title 45 of the Revised Statutes, of any substance for the preservation of dead bodies which have legally come into its possession.

33. The sale or use for embalming purposes within the State of New Jersey of any fluid containing arsenic, zinc, mercury, copper, lead, silver, antimony, chloral, or cyanogen, or any compound containing any of said substances, or any poisonous alkaloid is prohibited. The board shall have power, by rules and regulations, to provide for appropriate tests to be made of all brands of embalming compounds sold or used within this State or intended for sale or use within this State, and shall disapprove for such sale or use any such compounds that, upon such tests, are determined to contain any substance herein prohibited. The board shall have power to publish a list of such compounds that, upon such tests, are determined to comply with the provisions of this section. Nothing in this section contained shall prohibit the use by any association incorporated under article four of chapter nine of Title 45 of the Revised Statutes, of any substance for the preservation of dead bodies which have legally come into its possession.

34. Every practitioner of mortuary science, embalmer or funeral director shall report to the local health officer all contagious cases in which he may be called, within twelve hours after death or as soon as may be after being called.

1 35. Whenever the board shall have reason to believe that any person to
2 whom a license has been issued is guilty of any of the acts or omissions
3 specified in sections thirty-one to thirty-four, inclusive, of this act, or when-
4 ever written complaint is filed with the board charging a person licensed as
5 an embalmer, funeral director, or practitioner of mortuary science with any
6 of said acts or omissions, it shall be the duty of the said board to conduct an
7 investigation and if from such investigation it shall appear to the board that
8 there is reasonable ground for belief that the accused may be guilty of the
9 violations charged, a time and place shall be set by the board for a hearing
10 to determine whether or not the license of the accused shall be revoked.
11 Complaints may be preferred by any person or the board may on its own
12 motion direct its secretary to prefer a complaint.

1 36. No hearing shall be held by the board until the accused has been
2 furnished with a statement of the complaint and charges against him and a
3 notice of the time and place of hearing thereof, the furnishing of said
4 notice and the charges to be given said accused at least fifteen days prior to
5 the date of hearing. The accused may be present at such hearing in person
6 or by counsel or both to disprove the charges made against him. If upon
7 such hearing the board finds the charges are true, it may revoke or suspend
8 the license of the accused. A stenographic report of each proceeding to
9 revoke or suspend a license shall be made at the expense of the board, and
10 a transcript thereof kept in its files.

1 37. Any person who has been denied a license renewal, or whose license
2 has been suspended or revoked, or is otherwise aggrieved by any ruling or
3 decision of the board, may appeal therefrom to the Appellate Division of
4 the Superior Court.

1 38. The president or any member of the board may administer oaths
2 and shall have power to issue subpoenas, to compel the attendance of licen-
3 sees, applicants for licenses, and witnesses and the production of books,
4 papers and records before the board in any inquiry or proceedings which
5 may be instituted by it or be pending before it under this act, and such

subpoenas may be served by any person eighteen or more years of age, and the same witness fees shall be paid as in the cases of subpoenas issued out of the Superior Court. Service of a subpoena shall be made by delivering a copy thereof to the person named and by tendering to him the fee for one day's attendance and such mileage as may be allowed by law.

39. If any person who, having been personally served with a subpoena is sued by the board and given or tendered the fees prescribed herein, shall without legal excuse, fail to appear before the board, or fail to produce records or documents required to be produced by the subpoena, or fail or refuse to testify or to answer any proper question, the board may apply to the Superior Court, or to a judge thereof, who shall have the power of the court for that purpose, upon proof by affidavits of the facts, for an order returnable in not less than two or more than ten days directing such person to show cause before the court or the judge thereof who made the order, or to any other judge of the court, why he or she should not comply with the subpoena or order of the board, and upon the return of such order the court or judge before whom the matter may come on for hearing shall examine under oath the person whose testimony may be relevant and such person shall be given an opportunity to be heard, and if the court or judge determines that such person refused, without legal excuse, to obey the command of such subpoena to be examined or to answer a proper question or to produce a record or documents which he or she was ordered to produce, said court or judge may order said person to comply forthwith with the subpoena or order of the board, and any failure to obey such order of the court or judge may be punished by the court or judge as a contempt of such Superior Court.

40. (a) Any person, firm or corporation who shall violate any of the provisions of this act, or any rule or regulation of the State Board of Mortuary Science of New Jersey except where a penalty is otherwise herein specifically provided, shall be subject to a penalty of two hundred dollars (\$200.00) for the first offense and to a penalty of five hundred dollars (\$500.00) for a second and each subsequent offense to be sued for and recovered in the name of the State Board of Mortuary Science of New Jersey.

8 (b) Jurisdiction of suits and proceedings to collect and enforce such pen-
 9 alties is hereby conferred upon every County Court and every county dis-
 10 trict court, and the practice and procedure in such suits and proceedings
 11 shall be such as is and shall be provided for by rules promulgated by the
 12 Supreme Court of New Jersey in respect of such suits and proceedings and
 13 the provisions of chapter fifty-eight of Title 2A of the New Jersey Statutes.
 14 If judgment be rendered against the defendant, the plaintiff shall recover
 15 its costs which shall be those as are taxed in other actions of a civil nature in
 16 the court in which the judgment is rendered. If judgment be rendered
 17 against the defendant in any suit or proceeding brought under
 18 section and the defendant refuses or fails to pay forthwith the
 19 amount of the judgment rendered against him, the court in which
 19A the suit or proceeding was brought shall cause the defendant to be
 20 committed to the county jail for a period of not less than thirty days nor
 21 more than ninety days in case of a first conviction, and for a period of not
 22 less than sixty days nor more than one hundred and sixty days for each
 23 subsequent conviction.

1 41. The board shall provide for and hold each year at the time and
 2 place of the meeting of the New Jersey State Funeral Directors' Associa-
 3 tion, a course of lectures and practical demonstrations on public health and
 4 the latest and improved methods of embalming, sanitation and disinfecting
 5 for the benefit of licensees.

6 The president and secretary of the board and the president and secre-
 7 tary of the New Jersey State Funeral Directors' Association shall constitute
 8 a committee for the selection of lecturers and demonstrators. The commit-
 9 mittee shall have full authority in the selection of said lecturers and demon-
 10 strators and shall fix the compensation to be paid, and the expense of said
 11 course of lectures and demonstrations shall be paid out of the funds of the
 12 board.

1 42. The board shall report to the State Department of Health the name
 2 and residence of every person to whom it may issue a license and shall, be-

3 fore January first, in each year, forward to the registrar of vital statistics
4 of each municipality a printed list duly verified, containing the names of all
5 licensed practitioners of mortuary science, funeral directors and embalmers
6 and such list shall be kept on file in such office. The board shall issue to each
7 person granted a license an identification card stating that the holder there-
8 of has received a license and is carrying on the practice of mortuary science,
9 or of funeral directing or embalming. The proper holder of such a card shall
10 have the same right to carry on the practice of mortuary science, or of
11 funeral directing or embalming as those whose names appear on file in the
12 office of the registrar of vital statistics in each municipality.

1 43. The rules and regulations adopted by the board pursuant to this act
2 shall be printed and copies thereof shall be sent by the board to any person
3 licensed under this act or under any prior law, who makes application there-
4 for, and, upon payment of a fee of one dollar to any other person who
5 makes application therefor, and shall also be open for inspection at the office
6 of the board. Every license and renewal granted under this act shall con-
7 tain a statement to the effect that the practice licensed must be conducted in
8 accordance with the law and with the rules and regulations of the board
9 adopted in pursuance thereto, and that a copy of such rules and regula-
10 tions may be obtained upon request at the office of the board.

1 44. In the event that any section, paragraph, clause, sentence or part
2 of this act shall for any reason be adjudged to be invalid by any court of
3 competent jurisdiction, such judgment shall not impair the remainder there-
4 of, but shall be confined strictly in its operation to the particular clause, sec-
5 tion, paragraph or part thereof so held to be invalid.

1 45. All acts and parts of acts inconsistent with the provisions of this
2 act are hereby repealed.

1 46. This act shall take effect July first, one thousand nine hundred and
2 fifty-two.

[THIRD OFFICIAL COPY REPRINT]

SENATE, No. 253

STATE OF NEW JERSEY

INTRODUCED MARCH 17, 1952

By Mr. CLAPP

Referred to Committee on Public Health

AN ACT to revise and codify the law relating to the profession of mortuary science, embalming and funeral directing, creating a State Board of Mortuary Science of New Jersey and defining its powers and duties; authorizing the licensing of practitioners of mortuary science and of embalmers and funeral directors to practice their profession; providing for the registration and examination of trainees; prescribing rules and regulations governing the profession and to fix penalties for violations of the provisions of this act and of said rules and regulations.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. This act shall be known as the "Mortuary Science Act."

1 2. In the interest of, and to better secure, the public health, safety and
2 welfare and for the more efficient administration and supervision of sani-
3 tary codes and health regulations, the practice of mortuary science and
4 the practice of embalming and funeral directing are hereby declared to be
5 a profession.

1 3. As used in this act:

2 (a) "Board" means the State Board of Mortuary Science of New
3 Jersey.

4 (b) "Embalming" means the disinfecting or preservation of a dead
5 human body, entirely or in part by the use of chemical substances, fluids

6 or gases in the body, or by introduction of the same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities.

9 (c) "Funeral directing" means (1) the engaging in or conducting or holding one's self out as being engaged in or conducting the preparation (other than embalming) for burial or disposal and the direction or supervision of burial or disposal of dead human bodies; or (2) maintaining, using or operating a mortuary; or (3) in connection with one's name or mortuary using the words "mortician" or "funeral director" or "undertaker" or any other words or title of like import or signification.

16 (d) "Mortuary science" means embalming and funeral directing, as the same are herein defined.

18 (e) "Embalmer" means a qualified person who practices or engages in embalming, as the same is herein defined.

20 (f) "Funeral director" includes "undertaker" and means a qualified person who practices or engages in funeral directing, as the same is herein defined.

23 (g) "Practitioner of mortuary science" means a qualified person who practices or engages in mortuary science, as the same is herein defined and who (1) shall be licensed under the provisions of this act as a practitioner of mortuary science, or (2) holds a license as both an embalmer and a funeral director under the provisions of any prior law or laws of this State, or (3) holds a license as an embalmer under the provisions of any prior law or laws of this State and shall be licensed under the provisions of section twenty-one of this act as a funeral director, or (4) holds a license as a funeral director under the provisions of any prior law or laws of this State and shall be licensed under the provisions of section twenty-one of this act as an embalmer.

34 (h) "Mortuary" means any place or premises devoted to or used in the care and preparation for burial, disposition, or transportation of dead human bodies, or any place where any person or persons shall hold forth

37 that he, she, or they are engaged in the practice of the profession of mor-
38 tuary science, embalming or funeral directing.

39 (i) "Registered trainee" means a person who is duly registered with
40 the board and who is engaged in the State of New Jersey in learning to
41 practice as a practitioner of mortuary science under the personal instruc-
42 tion and supervision of a person duly licensed as a practitioner of mortu-
43 ary science and who has an annual case volume as hereinafter provided in
44 section eighteen of this act.

1 4. There is hereby created in the Division of Professional Boards in
2 the Department of Law and Public Safety a State Board of Mortuary
3 Science of New Jersey, which board shall consist of five members, each
4 of whom shall be a citizen of the United States and a resident of the State
5 of New Jersey, duly licensed as a practitioner of mortuary science and
6 shall have had a minimum of five consecutive years of experience and
7 practice as a practitioner of mortuary science in this State immediately
8 preceding his appointment. Subject to the provisions of section 45:1-2 of
9 the Revised Statutes, members of the board shall be appointed annually by
10 the Governor for a term of three years. Each member shall hold office after
11 the expiration of his term of office until his successor shall be duly ap-
12 pointed and qualified. Vacancies occurring by reason of the expiration of
13 term of office shall be filled by the Governor in the calendar year in which
14 any such vacancy occurs for a term of three years from July first of the
15 year of appointment. Vacancies occurring by reason of the failure or neg-
16 lect of the Governor to make appointments upon the expiration of terms
17 of office as hereinabove provided and vacancies occurring for any other
18 reason whatsoever shall be filled by the Governor for the unexpired term
19 only. Members of the Board of Embalmers and Funeral Directors holding
20 office at the time this act becomes effective shall continue in office as mem-
21 bers of the State Board of Mortuary Science of New Jersey for the re-
22 mainder of the terms for which they were severally appointed.

23 Any member of the State Board of Mortuary Science of New Jersey may
24 be removed from office by the Governor, for cause, upon notice and oppor-
25 tunity to be heard.

26 The Board of Embalmers and Funeral Directors of the State of New
27 Jersey is hereby abolished and all of its functions, powers and duties, except
28 as may be inconsistent with the provisions of this act, are hereby trans-
29 ferred to and vested in the State Board of Mortuary Science of New Jersey
30 established hereunder. The State Board of Mortuary Science of New Jersey
31 established hereunder and its functions, powers and duties shall in all respects
32 be subject to the provisions of sections thirty, thirty-two, thirty-three, thirty-
33 five, thirty-seven, thirty-nine and forty of chapter four hundred thirty-nine of
34 the laws of one thousand nine hundred and forty-eight.

1 5. The files, books, papers, records, equipment and other property of
2 the present Board of Embalmers and Funeral Directors of the State of New
3 Jersey shall, on the effective date of this act, be delivered to the State Board
4 of Mortuary Science of New Jersey created under this act.

1 6. Each member of the board, before entering upon his duties and within
2 thirty days after receiving notice of his appointment, shall take and subscribe
3 an oath of office such as is provided for other State officials. Upon the failure
4 of a member of the board to take the oath of office as provided herein, a
5 vacancy in the membership of the board shall then exist which shall be filled
6 by the Governor as provided in section four. The board shall annually select
7 from its membership a president and secretary, who shall serve until their
8 successors shall be elected and qualified. The board is authorized and em-
9 powered to adopt and promulgate such rules and regulations, not inconsistent
10 with this act, as it may deem expedient for the transaction of its business
11 and for the purpose of efficiently enforcing the provisions of this act.

1 7. The board is authorized and empowered to adopt such rules and
2 regulations, not inconsistent with this act, as shall be reasonably proper and
3 advisable for the promotion or improvement of the standards of service,
4 protection and practice to be followed in the profession of mortuary science,

5 embalming and funeral directing in the State of New Jersey and for and in
6 the interest, preservation and improvement of the public health, morals, safety
7 and welfare.

1 8. The board shall adopt a seal, of which the secretary shall have the
2 care and custody, and all courts of this State shall take judicial notice of such
3 seal.

1 9. The president of the board shall preside at all meetings and he shall
2 exercise and perform all duties and functions incidental to the office of presi-
3 dent of the board.

1 10. The secretary shall keep a record of all proceedings of the board,
2 shall exercise and perform all duties and functions incidental to his office and
3 such other duties and functions as may be assigned by the board. He shall
4 receive such compensation for his services, within the limits of available ap-
5 propriations therefor, and shall give such bond for the faithful performance
5a of his duties as the board may, with the approval of the Attorney-General, de-
5b termine.

6 The secretary of the board shall keep a record in which shall be
7 registered the name and professional address of every person to whom
8 licenses have been granted in accordance with the provisions of this act or in
9 accordance with the provisions of prior laws of this State, the number and
10 date of such license and the date of each renewal thereof.

11 The secretary shall, whenever requested so to do, certify over the seal of
12 the board, whether the records kept by the board show or fail to show a license
13 to carry on the practice of mortuary science or of embalming or funeral
14 directing, or both, or the issuance of any renewal of any such licenses or
15 whether any person has or has not a license in full force and effect. The fee
16 for any such certificate shall be one dollar (\$1.00). Any such certificate,
17 whether made by the secretary upon such request or for use in proceedings
18 before the board or in which the board may be a party, shall be prima facie
19 evidence of the facts therein stated.

20 In the month of January of each and every year the secretary of said
21 board shall supply to each licensed practitioner of mortuary science, to each
22 licensed embalmer and to each licensed funeral director a list of all practi-
23 tioners of mortuary science, embalmers, and funeral directors holding a
24 license under this act or under prior laws of this State, giving the names of
25 such persons, their professional address and the number and nature of their
26 licenses.

1 11. The board may, subject to the approval of the Attorney-General,
2 appoint and at any time remove an agent whose title shall be "inspector of
3 the State Board of Mortuary Science of the State of New Jersey." Such
4-5 agent shall, during his continuance in office, be authorized to serve
6 and execute any process issued by any court of record under the provisions
7 of this act and shall also have power to serve any papers or process issued by
8 the board or any officer or member thereof under authority of this act and
9 shall also have power to enter the mortuary, office or establishment, or place
10 of practice of any practitioner of mortuary science, embalmer, or funeral
11 director or any mortuary office or establishment, or place where embalming or
12 undertaking is carried on, for the purpose of inspecting the premises and the
13 license and registration of practitioners of mortuary science, embalmers, and
14 funeral directors operating therein. The appointment of such agent shall
15 not be subject to the provisions of Title 11 of the Revised Statutes of this
16 State and he shall be paid such compensation as the board may determine,
17 within the limits of available appropriations therefor.

1 12. The board may, subject to the approval of the Attorney-General, ap-
2 point, employ or remove such assistants and employees as may be necessary
3 to carry out the provisions of this act. Such assistants and employees shall
4 not be subject to the provisions of Title 11 of the Revised Statutes of this
5 State and the board shall fix the compensation of its assistants and em-
6 ployees, within the limits of available appropriations therefor.

1 13. A quorum of the board shall consist of a majority of the members
2 thereof and the board may act in all cases by a vote of the majority of those

3 present except that no license shall be revoked or suspended unless a majority
4 of the whole board vote in favor of such revocation or suspension. In the
5 absence or in case of the incapacity of any officer of the board, the board
6 may designate any other member of the board to fulfill the duties of the
7 absent or incapacitated officer for the time being.

1 14. The members of the board shall receive twenty-five dollars per diem
2 for time spent in discharge of their duties and in addition shall be entitled
3 to have and receive their necessary traveling expenses.

1 15. All fines, fees, penalties and other moneys derived from the operation
2 of this act, or payable pursuant to the provisions of this act or any other law
3 to the board shall be collected by the secretary of the board and shall be paid
4 into the State treasury, through the Attorney-General.

1 16. No person shall engage in the practice of mortuary science, embalm-
2 ing or funeral directing, unless he shall have been duly licensed so to do, by
3 the board, under the provisions of this act or under the provisions of any
4 prior law of this State and unless such license is unrevoked and in full force
5 and effect; *provided*, that this shall not apply to a registered trainee working
6 under the direct supervision of a practitioner of mortuary science.

1 17. Except as provided in section twenty-one of this act, from and after
2 July first, one thousand nine hundred and fifty-two, the board shall grant
3 only a single license as practitioner of mortuary science to any applicant,
4 and any person shall hold a license as a practitioner of mortuary science is-
5 sued under the provisions of this act before being permitted to practice
6 mortuary science or embalming or funeral directing in this State.

1 18. (a) Except as hereinafter provided in section twenty-one of this act,
2 every person desiring to enter into the practice of mortuary science on and
3 after July first, one thousand nine hundred and fifty-two, before being li-
4 censed by the board so to do:

5 (1) Shall have passed an examination to be conducted by the board
6 to determine his qualifications and fitness therefor. Such examination,
7 the scope, character and content of which shall be determined by the

board, shall be the same for all candidates at each examination, and shall include the following subjects: anatomy; physiology; pathology; chemistry; disinfection; hygiene; sanitary science; bacteriology; dissection; the care, preservation, embalming, transportation, burial or disposal of dead human bodies, including those dead as a result of contagious and infectious diseases; the signs of death and the manner in which death may be determined; laws and rules governing vital statistics and the preparation and transportation for burial of dead human bodies; the provisions of this act and of the rules and regulations adopted by the board; professional ethics; mortuary accounting; and such other subjects as the board may determine, by rule or regulation, to be necessary, proper or reasonably calculated to establish the qualifications and fitness of the applicant. Such examinations shall be in writing and shall be held at least once in each year, and oftener if the board shall so determine by rule or regulation, at such times and places as may be fixed by the board. In addition to the written examination herein provided for, the examination of each applicant shall include, wherever possible, an actual demonstration on a cadaver of the embalming proficiency and qualifications of the applicant;

(2) Shall have completed three years of practical training and experience as a registered trainee in regular, steady, bona fide fulltime service of a grade and character satisfactory to the board, in the State of New Jersey, with a person duly licensed as a practitioner of mortuary science under this act or as both an embalmer and funeral director under any prior law of this State and whose annual case volume shall be equal to at least fifty cases for each registered trainee in his service; except that a person who has satisfactorily completed one academic year of instruction in a college or university approved by the board or who has satisfactorily completed two academic years of instruction in a school of mortuary science approved by the board need only have completed two years of practical training and experience as a registered

39 trainee. Not more than two registered trainees shall be registered con-
40 currently under any licensed person. The board is authorized and em-
41 powered to prescribe rules and regulations to insure that each trainee re-
42 ceives satisfactory and efficient training and experience which may pro-
43 vide for the periods that may be credited toward the required year of
44 training and experience, the nature, character and extent of the services
45 to be performed by the trainee, for such practical and actual experience
46 in mortuary science and assisting in the same as it shall determine and
47 for the making of such reports by the trainee and by the licensee with
48 whom he is registered as may be advisable and for such other qualifica-
49 tions in the applicant as may be reasonably calculated to insure and
50 protect the public health, morals, safety and welfare;

51 (3) Shall have, upon commencing his period of training and experi-
52 ence as provided in subdivision (a) (2) of this section registered as a
53 trainee with the board, upon a form to be provided by the board, and
54 has paid to the board a registration fee of fifty dollars (\$50.00), and
55 has received from the board a certificate as a registered trainee;

56 (4) Shall have been a resident of the State of New Jersey continu-
57 ously during the period of his training and experience; and,

58 (5) Shall have passed his twenty-first birthday.

59 (b) An applicant who meets the requirements of section nineteen of
60 this act shall be admitted to the examinations prescribed in subdivision (a)
61 (1) of this section but a license to enter into the practice of mortuary science
62 shall not be issued or granted to any such applicant by the board unless and
63 until such applicant has completed the period of practical training and ex-
64 perience as a registered trainee required by subdivision (a) (2) of this sec-
65 tion.

1 19. The board shall admit to examination or re-examination any appli-
2 cant who pays a fee of fifty dollars (\$50.00) for the initial examination and a
3 fee of ten dollars (\$10.00) for each re-examination. Each applicant, before
4 being admitted to an examination, shall first submit to the board evidence
5 verified by oath and satisfactory to the board that:

6 (a) He is a citizen of the United States and has been a resident of the
7 State of New Jersey for a period of at least six months prior to the date of
8 the examination;

9 (b) He is of good moral character;

10 (c) He has satisfactorily completed a regular four-year high school
11 course, or its equivalent, as determined by the State Board of Education and
12 at least one academic year of instruction in a school of mortuary science
13 approved by the board.

1 20. If an applicant fails on the first examination, he may have one or
2 more but not exceeding three additional examinations, which shall be taken
3 within a period of five years immediately following the completion of his in-
4 struction in a school of mortuary science but not thereafter. If an applicant
5 fails to pass four examinations, he shall not thereafter be permitted to apply
6 for a license under this act. The board may, by rule or regulation, extend
7 the period of time within which an applicant to examination shall take his
8 examination as provided in this section; *provided, however*, that such ex-
9 tension of time may be granted only to applicants whose period of training
10 and experience as registered trainees or whose period of instruction in an
11 approved school of mortuary science is interrupted by active duty in the
12 military service of the United States.

13 21. (a) Until July first, one thousand nine hundred and fifty-seven, the
14 board shall also hold examinations for licenses as embalmers and for li-
15 censes as funeral directors in the manner provided by chapter seven of Title
16 45 of the Revised Statutes, as amended or supplemented, and the rules and
17 regulations promulgated thereunder and such re-examinations as may be
18 necessary thereafter, but no applicant shall be admitted to any examination
19 after failing to pass four examinations. The board shall admit to any such
20 examination any person, who at the time this act shall take effect shall be
21 duly registered as an apprentice for license as embalmer or as an apprentice
22 for license as a funeral director, as the case may be, and shall otherwise be
23 qualified in accordance with chapter seven of Title 45 of the Revised Statutes,

24 as amended or supplemented, and the rules and regulations promulgated
25 thereunder. The board shall issue a license as embalmer or a license as fu-
26 neral director to those who shall so qualify and pass such an examination
27 and the board shall issue a license as embalmer and funeral director to those
28 who shall so qualify. Any such license shall entitle the licensee to practice
29 as an embalmer, a funeral director, or as an embalmer and funeral director,
30 as the case may be, in accordance with the provisions and limitations of
31 chapter seven of Title 45 of the Revised Statutes, as amended or supple-
32 mented, and under the provisions and limitations of this act.

33 (b) The board may, by rule or regulation, extend the date for the hold-
34 ing of examinations for licenses as embalmers and for licenses as funeral di-
35 rectors as provided in paragraph (a) of this section; *provided, however*, that
36 an extension of such date may be granted only to applicants whose period
37 of apprenticeship as a registered apprentice or whose course in an approved
38 school of embalming and funeral management is interrupted by active duty in
39 the military service of the United States.

1 22. All licenses and renewals thereof issued pursuant to the provisions
2 of this act shall be signed by the members of the board and shall have the
3 seal of the board affixed thereto, and shall expire and terminate on the first
4 day of September next following the date of their issue, unless sooner re-
5 voked and cancelled.

1 23. Any person holding a license or licenses under this act or under any
2 prior law of this State may have the same renewed upon making and filing
3 with the board an application therefor upon forms provided by the board and
4 upon payment of a renewal fee of ten dollars (\$10.00); *provided*, that any
5 person neglecting or failing to have his license renewed, as above, may have
6 the same renewed by making application therefor during the six months fol-
7 lowing the expiration date upon payment of a revival and renewal fee of fifty
8 dollars (\$50.00).

1 24. Every individual, partnership, or corporation which operates or
2 maintains within this State a mortuary or which in the usual and regular

3 course of his or its practice makes use of a mortuary owned, operated,
4 or maintained by another shall annually apply to the board for a certifi-
5 cate of registration for each mortuary operated, maintained, or used by the
6 applicant and shall report under oath any facts requested by the board, and
7 such individual, partnership, or corporation shall pay an annual registra-
8 tion fee of twenty dollars (\$20.00) for each such mortuary. Upon verifi-
9 cation of the statements thus reported and the receipt of the requisite fee,
10 the board shall issue a certificate of registration which shall bear date of
11 January first for the year of issue and shall expire on December thirty-
12 first of such year. No mortuary shall be operated, maintained, or used at
13 any location by any person, firm or corporation at any location not speci-
14 fied in a certificate of registration issued under this section.

1 25. Any person now entitled to practice embalming or funeral directing
2 or both under the provisions of any prior law of the State of New Jersey
3 shall continue to be entitled to practice or engage in the same notwith-
4 standing the enactment of this act, and the validity of any license, or re-
5 newals thereof, to practice embalming or funeral directing, or both, under
6 any such prior law, shall not be affected by the enactment of this act, but
7 all such persons shall in all other respects be subject to the provisions of
8 this act.

1 26. (a) No corporation shall carry on, or continue to carry on, or be
2 authorized to carry on or to continue to carry on or hold itself out, or to
3 continue to hold itself out as carrying on, the practice of mortuary science,
4 embalming, or funeral directing; except that any corporation which was on
5 March twenty-eighth, nineteen hundred twenty-nine, authorized under ear-
6 lier laws of this State to carry on the practice of embalming or funeral di-
7 recting in such a way that, under the law, its right to do so could not have
8 been entirely forbidden on March twenty-eighth, nineteen hundred twenty-
9 nine, may continue such practice under such reasonable rules and regula-
10 tions as the board may determine with respect to the management and
11 control of the actual practice of mortuary science, embalming or funeral

12 directing by persons holding licenses granted by the board and with respect
13 to such other matters as the board may determine.

14 (b) No corporation permitted under the laws of this State to carry on
15 the practice of embalming or funeral directing shall change its corporate
16 name except to that of a person or persons duly licensed to practice mor-
17 tuary science, embalming, or funeral directing under the provisions of this
18 act or under the provisions of any prior law of this State.

1 27. No partnership shall carry on or continue to carry on, or be au-
2 thorized to carry on or continue to carry on or hold itself out, or con-
3 tinue to hold itself out, as carrying on the practice of mortuary science,
4 embalming or funeral directing unless the practice is carried on under a
5 firm name which shall consist of the surnames of one or more members of
6 the partnership, and unless all members of the partnership are duly licensed
7 as practitioners of mortuary science, embalmers or funeral directors; *pro-*
8 *vided, however,* that any partnership for the practice of embalming or fu-
9 neral directing, or both, in existence and actually engaged in practice on
10 July first, one thousand nine hundred and fifty-two, in accordance with the
11 provisions of chapter seven of Title 45 of the Revised Statutes, as amended
12 or supplemented, each of the members of which are duly licensed as either
13 an embalmer or funeral director under any prior law of this State, may con-
14 tinue such practice under the firm name in use on that date until the death
15 or retirement or withdrawal from the partnership, whichever shall first oc-
16 cur, of any member thereof.

17 Nothing herein contained shall prohibit a licensed practitioner of mor-
18 tuary science, embalmer or funeral director from acting as an employee of
19 a partnership complying with the provisions of this section, provided the
20 name of such employee does not appear as part of the firm name.

1 28. The license of any practitioner of mortuary science or of any em-
2 balmer and funeral director, or either, shall terminate upon his decease; but
3 upon application to the board the practice of a deceased licensee who, at
4 the time of his death, was practicing under his own name and not as a

5 member of a partnership or as an officer, agent or employee of a corpora-
 6 tion or as an employee of a partnership or of another licensee, may be con-
 7 tinued for liquidation purposes and for the benefit of the widow or persons
 8 interested in the estate of the deceased and the name of the deceased licensee
 9 may be used for a period of not more than five years from the date of death
 10 of the licensee or from the date this act becomes effective where such li-
 11 censee has died prior to such effective date; *provided*, the practice is carried
 12 on under the supervision of a duly licensed practitioner of mortuary science
 13 or a duly licensed embalmer and funeral director in such manner as the board
 14 shall determine by rules and regulations.

1 29. Except as otherwise provided in this act, no licensed person shall
 2 carry on, or be authorized to carry on or continue to carry on or hold himself
 3 out, or continue to hold himself out, as carrying on the practice of mortuary
 4 science, embalming or funeral directing as an officer, agent or employee of a
 5 corporation or under the name of a corporation, or under a firm or partner-
 6 ship name, or under an assumed name, or otherwise than under his own
 7 name.

1 30. No person shall operate, maintain or use a mortuary within this
 2 State unless:

- 3 (a) He, they or it shall annually register with the board in accord-
 4 ance with the provisions of section twenty-four of this act;
- 5 (b) The certificate of registration issued by the board shall be conspicu-
 6 ously displayed within the establishment;
- 7 (c) The licenses of the individual owner, of all partners, or of the man-
 8 ager of the establishment in all cases where the establishment is not man-
 9 aged by a licensed individual owner or licensed partners, shall be conspicu-
 9a ously displayed within the establishment;
- 10 (d) It shall be under the immediate and personal supervision, direction,
 11 management, and control of a person duly licensed as a practitioner of mortu-
 12 ary science, under the provisions of this act, or of a person duly licensed as a
 13 funeral director under the provisions of this act or of any prior law of this

14 State; and all funeral directing shall be under the immediate and personal
 15 supervision, direction, management, and control of a person duly licensed as a
 16 practitioner of mortuary science, under the provisions of this act, or of a
 17 person duly licensed as a funeral director under the provisions of this act or
 18 of any prior law of this State;

19 (e) Its construction, maintenance and operation shall conform to the rules
 20 and regulations of the board promulgated to safeguard and promote the public
 21 health, safety, morals and welfare.

1 31. After notice and hearing as hereinafter provided, the board may refuse
 2 to grant, or may suspend or revoke any license to practice mortuary science
 3 or to practice embalming and funeral directing, or either of them, in this
 4 State, if it determines that the holder of any such license has been guilty of
 5 any of the following acts or omissions:

6 (a) The employment of fraud and deception in applying for a license or
 7 a renewal of a license or in the passing of an examination provided for in
 8 this act or in any rule or regulation of the board;

9 (b) The violation of any provision of this act;

10 (c) The violation of any rule or regulation of the board adopted pur-
 11 suant to the provisions of this act;

12 (d) Violation of any State law or municipal or county ordinance or regu-
 13 lation affecting the handling, custody, care or transportation of dead human
 14 bodies;

15 (e) Assigning, loaning, selling or fraudulently obtaining any license, rec-
 16 ord, or certificate for funeral directing or for operating or maintaining a
 17 mortuary, or aiding or abetting therein;

18 (f) Gross incompetence;

19 (g) Chronic and persistent inebriety, or the habitual use of narcotics;

20 (h) Conviction of a crime involving moral turpitude; or where any
 21 licensee or applicant for a license has pleaded nolo contendere or non vult to
 22 any indictment, allegation or complaint, alleging the commission of a crime
 23 involving moral turpitude. The record of conviction or the entry of such a

24 plea in any court of this State or any other State, or in any of the courts of
 25 the United States shall be sufficient warrant for the revocation or suspension
 26 of a license;

27 (i) Conviction in a court of competent jurisdiction of a high misde-
 28 meanor;

29 (j) Unethical or unprofessional conduct or engaging in the practice of
 30 mortuary science or the practice of embalming and funeral directing, or
 31 either of them, in a manner which is prejudicial to the public health, safety,
 32 morals and welfare;

33 (k) False, fraudulent, or misleading advertising;

34 (l) Any conduct which is of a character likely to deceive or defraud the
 35 public;

36 (m) The performance of any fraudulent act in the conduct of his prac-
 37 tice.

1 32. No person shall inject any fluid or substance into any cavity or
 2 artery of the body of any person who has come to a sudden, violent or un-
 3 timely death, or of any person found dead, the manner of whose death is not
 4 known, until permission is obtained from the medical examiner, county
 5 physician, or the coroner of the county in which the dead body lies. No
 6 person shall employ, for the purpose of the practice of mortuary science,
 7 funeral directing or embalming, any arsenical or other poisonous agent
 8 which may by its presence in the viscera prevent the detection of criminal
 9 usage of the poisonous agent before the death of the individual occurred;
 10 but this provision shall not prohibit the use by any association incorporated
 11 under article four of chapter nine of Title 45 of the Revised Statutes, of any
 12 substance for the preservation of dead bodies which have legally come into
 13 its possession.

1 33. The sale or use for embalming purposes within the State of New
 2 Jersey of any fluid containing arsenic, zinc, mercury, copper, lead, silver,
 3 antimony, chloral, or cyanogen, or any compound containing any of said
 4 substances, or any poisonous alkaloid is prohibited. The board shall have

5 power, by rules and regulations, to provide for appropriate tests to be made
 6 of all brands of embalming compounds sold or used within this State or in-
 7 tended for sale or use within this State, and shall disapprove for such sale
 8 or use any such compounds that, upon such tests, are determined to contain
 9 any substance herein prohibited. The board shall have power to publish a
 10 list of such compounds that, upon such tests, are determined to comply with
 11 the provisions of this section. Nothing in this section contained shall pro-
 12 hibit the use by any association incorporated under article four of chapter
 13 nine of Title 45 of the Revised Statutes, of any substance for the preserva-
 14 tion of dead bodies which have legally come into its possession.

1 34. Every practioner of mortuary science, embalmer or funeral director
 2 shall report to the local health officer all contagious cases in which he may
 3 be called, within twelve hours after death or as soon as may be after being
 4 called.

1 35. Whenever the board shall have reason to believe that any person to
 2 whom a license has been issued is guilty of any of the acts or omissions
 3 specified in sections thirty-one to thirty-four, inclusive, of this act, or when-
 4 ever written complaint is filed with the board charging a person licensed as
 5 an embalmer, funeral director, or practitioner of mortuary science with any
 6 of said acts or omissions, it shall be the duty of the said board to conduct an
 7 investigation and if from such investigation it shall appear to the board that
 8 there is reasonable ground for belief that the accused may be guilty of the
 9 violations charged, a time and place shall be set by the board for a hearing
 10 to determine whether or not the license of the accused shall be revoked.
 11 Complaints may be preferred by any person or the board may on its own
 12 motion direct its secretary to prefer a complaint.

1 36. No hearing shall be held by the board until the accused has been
 2 furnished with a statement of the complaint and charges against him and a
 3 notice of the time and place of hearing thereof, the furnishing of said
 4 notice and the charges to be given said accused at least fifteen days prior to
 5 the date of hearing. The accused may be present at such hearing in person

6 or by counsel or both to disprove the charges made against him. If upon
 7 such hearing the board finds the charges are true, it may revoke or suspend
 8 the license of the accused. A stenographic report of each proceeding to
 9 revoke or suspend a license shall be made at the expense of the board, and
 10 a transcript thereof kept in its files.

1 37. Any person who has been denied a license renewal, or whose license
 2 has been suspended or revoked, or is otherwise aggrieved by any ruling or
 3 decision of the board, may appeal therefrom to the Appellate Division of
 4 the Superior Court.

1 38. The president or any member of the board may administer oaths
 2 and shall have power to issue subpoenas, to compel the attendance of licen-
 3 sees, applicants for licenses, and witnesses and the production of books,
 4 papers and records before the board in any inquiry or proceedings which
 5 may be instituted by it or be pending before it under this act, and such
 6 subpoenas may be served by any person eighteen or more years of age, and
 7 the same witness fees shall be paid as in the cases of subpoenas issued out of
 8 the Superior Court. Service of a subpoena shall be made by delivering a
 9 copy thereof to the person named and by tendering to him the fee for one
 10 day's attendance and such mileage as may be allowed by law.

1 39. If any person who, having been personally served with a subpoena is-
 2 sued by the board and given or tendered the fees prescribed herein, shall,
 3 without legal excuse, fail to appear before the board, or fail to produce rec-
 4 ords or documents required to be produced by the subpoena, or fail or refuse
 5 to testify or to answer any proper question, the board may apply to the
 6 Superior Court, or to a judge thereof, who shall have the power of the court
 7 for that purpose, upon proof by affidavits of the facts, for an order return-
 8 able in not less than two or more than ten days directing such person to
 9 show cause before the court or the judge thereof who made the order, or to
 10 any other judge of the court, why he or she should not comply with the sub-
 11 poena or order of the board, and upon the return of such order the court or
 12 judge before whom the matter may come on for hearing shall examine un-

13 der oath the person whose testimony may be relevant and such person shall
14 be given an opportunity to be heard, and if the court or judge determines
15 that such person refused, without legal excuse, to obey the command of such
16 subpoena to be examined or to answer a proper question or to produce a
17 record or documents which he or she was ordered to produce, said court or
18 judge may order said person to comply forthwith with the subpoena or order
19 of the board, and any failure to obey such order of the court or judge may
20 be punished by the court or judge as a contempt of such Superior Court.

1 40. (a) Any person, firm or corporation who shall violate any of the pro-
2 visions of this act, or any rule or regulation of the State Board of Mortuary
3 Science of New Jersey except where a penalty is otherwise herein specifically
4 provided, shall be subject to a penalty of two hundred dollars (\$200.00) for
5 for the first offense and to a penalty of five hundred dollars (\$500.00) for
6 a second and each subsequent offense to be sued for and recovered in the
7 name of the State Board of Mortuary Science of New Jersey.

8 (b) Jurisdiction of suits and proceedings to collect and enforce such pen-
9 alties is hereby conferred upon every County Court and every county dis-
10 trict court, and the practice and procedure in such suits and proceedings
11 shall be such as is and shall be provided for by rules promulgated by the
12 Supreme Court of New Jersey in respect of such suits and proceedings and
13 the provisions of chapter fifty-eight of Title 2A of the New Jersey Statutes.
14 If judgment be rendered against the defendant, the plaintiff shall recover
15 its costs which shall be those as are taxed in other actions of a civil nature in
16 the court in which the judgment is rendered. If judgment be rendered
17 against the defendant in any suit or proceeding brought under this
18 section and the defendant refuses or fails to pay forthwith the
19 amount of the judgment rendered against him, the court in which
19A the suit or proceeding was brought shall cause the defendant to be
20 committed to the county jail for a period of not less than thirty days nor
21 more than ninety days in case of a first conviction, and for a period of not
22 less than sixty days nor more than one hundred and sixty days for each
23 subsequent conviction.

1 41. The board shall provide for and hold each year at the time and
 2 place of the meeting of the New Jersey State Funeral Directors' Associa-
 3 tion, a course of lectures and practical demonstrations on public health and
 4 the latest and improved methods of embalming, sanitation and disinfecting
 5 for the benefit of licensees.

6 The president and secretary of the board and the president and secre-
 7 tary of the New Jersey State Funeral Directors' Association shall constitute
 8 a committee for the selection of lecturers and demonstrators. The commit-
 9 tee shall have full authority in the selection of said lecturers and demonstra-
 10 tors and, subject to available appropriations therefor, shall fix the compensa-
 11 tion to be paid, and the expense of said course of lectures and demonstrations
 12 shall be paid out of the funds appropriated to the board for such purpose.

1 42. The board shall report to the State Department of Health the name
 2 and residence of every person to whom it may issue a license and shall, be-
 3 fore January first, in each year, forward to the registrar of vital statistics
 4 of each municipality a printed list duly verified, containing the names of all
 5 licensed practitioners of mortuary science, funeral directors and embalmers
 6 and such list shall be kept on file in such office. The board shall issue to each
 7 person granted a license an identification card stating that the holder there-
 8 of has received a license and is carrying on the practice of mortuary science,
 9 or of funeral directing or embalming. The proper holder of such a card shall
 10 have the same right to carry on the practice of mortuary science, or of
 11 funeral directing or embalming as those whose names appear on file in the
 12 office of the registrar of vital statistics in each municipality.

1 43. The rules and regulations adopted by the board pursuant to this act
 2 shall be printed and copies thereof shall be sent by the board to any person
 3 licensed under this act or under any prior law, who makes application there-
 4 for, and, upon payment of a fee of one dollar (\$1.00) to any other person who
 5 makes application therefor, and shall also be open for inspection at the office
 6 of the board. Every license and renewal granted under this act shall con-
 7 tain a statement to the effect that the practice licensed must be conducted in

8 accordance with the law and with the rules and regulations of the board
 9 adopted in pursuance thereto, and that a copy of such rules and regula-
 10 tions may be obtained upon request at the office of the board.

1 44. This act shall not affect the orders, rules and regulations heretofore
 2 made or promulgated by the Board of Embalmers and Funeral Directors of
 3 the State of New Jersey, but such orders, rules and regulations shall con-
 4 tinue with full force and effect as the orders, rules and regulations of the
 5 State Board of Mortuary Science of New Jersey established hereunder until
 6 amended or repealed by said State Board of Mortuary Science of New Jersey.

1 45. This act shall not affect actions or proceedings, civil or criminal,
 2 brought by or against the Board of Embalmers and Funeral Directors of
 3 the State of New Jersey and pending on the effective date hereof, but such
 4 actions or proceedings may be prosecuted or defended in the same manner
 5 and to the same effect by the State Board of Mortuary Science of New Jer-
 6 sey established hereunder as if the foregoing provisions had not taken effect;
 7 nor shall any of the foregoing provisions affect any order or recommenda-
 8 tion made by, or other matters or proceedings before, the Board of Embalmers
 9 and Funeral Directors of the State of New Jersey, and all such matters and
 10 proceedings pending before said board on the effective date of this act shall
 11 be transferred to and continued before the State Board of Mortuary Science
 12 of New Jersey established hereunder.

1 46. All appropriations available and to become available to the Board of
 2 Embalmers and Funeral Directors of the State of New Jersey are hereby
 3 transferred to the State Board of Mortuary Science of New Jersey, estab-
 4 lished hereunder in the Division of Professional Boards of the Department of
 5 Law and Public Safety, and shall be available for the objects and purposes
 6 for which appropriated.

1 47. The employees of the Board of Embalmers and Funeral Directors of
 2 the State of New Jersey are hereby transferred to the State Board of
 3 Mortuary Science of New Jersey established hereunder.

1 48. In the event that any section, paragraph, clause, sentence or part
 2 of this act shall for any reason be adjudged to be invalid by any court of
 3 competent jurisdiction, such judgment shall not impair the remainder there-
 4 of, but shall be confined strictly in its operation to the particular clause, sec-
 5 tion, paragraph or part thereof so held to be invalid.

1 49. All acts and parts of acts inconsistent with the provisions of this
 2 act are, to the extent of such inconsistency, hereby repealed.

1 50. This act shall take effect July first, one thousand nine hundred and
 2 fifty-two.

SENATE BILL No. 253

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the State Constitution, I am returning herewith, for reconsideration and with my objections, Senate Bill No. 253.

The purpose of this bill is to revise generally the law relating to the practice of mortuary science, embalming and funeral directing. Several of the provisions of the measure are not in conformity with the Reorganization Act of 1948 establishing the State Department of Law and Public Safety (P. L. 1948, c. 439). Particularly, the provisions contained in that law, relating to the boards in the Division of Professional Boards of the Department, should be made completely applicable to the State Board of Mortuary Science of New Jersey set forth in the bill. In addition, there are technical corrections which should be made.

Accordingly, I am returning Senate Bill No. 253 for reconsideration and with the recommendation that amendments be made to the bill (Second Official Copy Reprint) as follows:

On page 3, section 4, immediately following line 22, insert the following new paragraphs:

"Any member of the State Board of Mortuary Science of New Jersey may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

"The Board of Embalmers and Funeral Directors of the State of New Jersey is hereby abolished and all of its functions, powers and duties, except as may be inconsistent with the provisions of this act, are hereby transferred to and vested in the State Board of Mortuary Science of New Jersey established hereunder. The State Board of Mortuary Science of New Jersey established hereunder and its functions, powers and duties shall in all respects be subject to the provisions of sections 30, 32, 33, 35, 37, 39 and 40 of chapter four hundred thirty-nine of the laws of one thousand nine hundred and forty-eight."

On page 4, section 5, line 1, after the word "The" at the beginning of the line, delete the word "records" and insert in lieu thereof the words "files, books, papers, records, equipment and other property".

On page 4, section 5, line 1, after the words "Funeral Directors" insert the words "of the State of New Jersey".

On page 4, section 5, line 2, after the word "shall" insert the words ", on the effective date of this act,".

On page 4, section 10, line 4, after the word "services" insert the words ", within the limits of available appropriations therefor,".

On page 4, section 10, line 5, after the words "board may" insert the words ", with the approval of the Attorney General,".

On page 5, section 10, line 13, delete the word "em-blaming" and insert in lieu thereof the word "embalm-ing".

On page 5, section 11, delete lines 1 and 2 in their entirety and insert in lieu thereof the words: "11. The board may, subject to the approval of the Attorney General, appoint and at any time remove, an".

On page 5, section 11, lines 4 and 5, delete the words "and the board may remove such agent at any time".

On page 6, section 11, line 16, after the word "determine" insert the words ", within the limits of available appropriations therefor".

On page 6, section 12, delete lines 1 and 2 in their entirety and insert in lieu thereof the following: "12. The board may, subject to the approval of the Attorney General, appoint, employ or remove,".

On page 6, section 12, line 3, delete the words "the services of".

On page 6, section 12, line 6, after the words "shall fix" delete the words "and pay".

On page 6, section 12, line 7, insert before the period the words ", within the limits of available appropriations therefor".

On page 6, section 15, line 1, delete the entire line and insert in lieu thereof the following: "15. All fines, fees, penalties and other moneys derived from the

operation of this act, or payable pursuant to the provisions of this act or any other law to the board shall be col-".

On page 6, section 15, lines 2 and 3, after the words "shall be" delete the remainder of the sentence and insert in lieu thereof the words "paid into the State Treasury, through the Attorney General."

On page 15, section 31, line 20, after the word "any" delete the letters "li-".

On page 16, section 32, line 10, delete the word "associtaion" and insert in lieu thereof the word "association".

On page 19, section 40, line 17, after the words "brought under" insert the word "this".

On page 19, section 41, lines 8 and 9, delete the word "commitmittee" and insert in lieu thereof the word "committee".

On page 19, section 41, line 10, after the words "strators and" insert the words ", subject to available appropriations therefor,".

On page 19, section 41, line 11, after the words "of the funds" delete the words "of the board" and insert in lieu thereof the words "appropriated to the board for such purpose."

On page 20, immediately following section 43 insert the following new sections:

"44. This act shall not affect the orders, rules and regulations heretofore made or promulgated by the Board of Embalmers and Funeral Directors of the State of New Jersey, but such orders, rules and regulations shall continue with full force and effect as the orders, rules and regulations of the State Board of Mortuary Science of New Jersey established hereunder until amended or repealed by said State Board of Mortuary Science of New Jersey.

"45. This act shall not affect actions or proceedings, civil or criminal, brought by or against the Board of Embalmers and Funeral Directors of the State of New Jersey and pending on the effective date hereof, but such actions or proceedings may be prosecuted or de-

fended in the same manner and to the same effect by the State Board of Mortuary Science of New Jersey established hereunder as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or recommendation made by, or other matters or proceedings before, the Board of Embalmers and Funeral Directors of the State of New Jersey, and all such matters and proceedings pending before said board on the effective date of this act shall be transferred to and continued before the State Board of Mortuary Science of New Jersey established hereunder.

"46. All appropriations available and to become available to the Board of Embalmers and Funeral Directors of the State of New Jersey are hereby transferred to the State Board of Mortuary Science of New Jersey, established hereunder in the Division of Professional Boards of the Department of Law and Public Safety, and shall be available for the objects and purposes for which appropriated.

"47. The employees of the Board of Embalmers and Funeral Directors of the State of New Jersey are hereby transferred to the State Board of Mortuary Science of New Jersey established hereunder."

On page 20, section 44, line 1, change the section number from "44" to section number "48".

On page 20, section 45, line 1, change the section number "45" to section number "49".

On page 20, new section 49, line 2, after the words "act are" insert the words ", to the extent of such inconsistency,".

On page 20, section 46, line 1, change the section number "46" to section number "50".

Respectfully,

ALFRED E. DRISCOLL.

Governor.

[SEAL]
Attest:

LEON S. MILMED,

Counsel and Acting Secretary to the Governor.

ASSEMBLY, No. 41

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1960

By Assemblyman WERNER

Referred to Committee on Business Affairs

AN ACT to amend and supplement the "Mortuary Science Act," approved June 18, 1952 (P. L. 1952, c. 340), and to repeal sections 21, 26, 27 and 29 of said act.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 2 of the act of which this act is amendatory is amended to read
2 as follows:

3 2. In the interest of, and to better secure, the public health, safety and
4 welfare and for the more efficient administration and supervision of sanitary
5 codes and health regulations, the practice of mortuary science and the
6 practice of embalming and funeral directing are hereby declared to be [a pro-
7 fession] *occupations charged with a high degree of public interest and subject*
8 *to strict regulation and control.*

1 2. Section 3 of the act of which this act is amendatory is amended to read
2 as follows:

3 3. As used in this act:

4 (a) "Board" means the State Board of Mortuary Science of New Jersey.

5 (b) "Embalming" means the disinfecting or preservation of a dead
6 human body, entirely or in part by the use of chemical substances, fluids or
7 gases in the body, or by introduction of the same into the body by vascular or
8 hypodermic injection, or by direct application into the organs or cavities.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

9 (c) "Funeral directing" means (1) the engaging in or conducting or
 10 holding one's self out as being engaged in or conducting the preparation
 11 (other than embalming) for burial or disposal and the direction or super-
 12 vision of burial or disposal of dead human bodies; or (2) maintaining, using
 13 or operating a mortuary; or (3) in connection with one's name or mortuary
 14 using the words "mortician" or "funeral director" or "undertaker" or any
 15 other words or title of like import or signification.

16 (d) "Mortuary science" means embalming and funeral directing, as the
 17 same are herein defined.

18 (e) "Embalmer" means a qualified person who practices or engages in
 19 embalming, as the same is herein defined.

20 (f) "Funeral director" includes "undertaker" and "mortician" and
 21 means a qualified person who practices or engages in funeral directing, as
 22 the same is herein defined.

23 (g) "Practitioner of mortuary science" means a qualified person who
 24 practices or engages in mortuary science, as the same is herein defined and
 25 who (1) shall be licensed under the provisions of this act as a practitioner
 26 of mortuary science, or (2) holds a license as both an embalmer and a funeral
 27 director under the provisions of any prior law or laws of this State, or (3)
 28 holds a license as an embalmer under the provisions of any prior law or laws
 29 of this State and shall [be] *have been* licensed under the provisions of sec-
 30 tion 21 of chapter 340, P. L. 1952 [this act] as a funeral director, or (4) holds
 31 a license as a funeral director under the provisions of any prior law or laws of
 32 this State and shall [be] *have been* licensed under the provisions of section
 33 21 of chapter 340, P. L. 1952 [this act] as an embalmer.

34 (h) "Mortuary" means any place or premises devoted to or used in the
 35 care and preparation for burial, disposition, or transportation of dead human
 36 bodies, or any [place] *specifically designated location or address* where any
 37 person or persons shall hold forth that he, she, or they are engaged in the
 38 practice of [the profession of] mortuary science, embalming or funeral di-
 39 recting, *and shall mean and include any premises of any kind whatsoever in*
 40 *which mortuary science in any of its branches is practiced or in which more*

41 *than 5 funerals may be conducted in any calendar year, except publicly owned*
 42 *buildings, places of worship and meeting places of fraternal organizations.*

43 (i) "Registered trainee" means a person who is duly registered with the
 44 board and who is engaged in the State of New Jersey in learning to practice
 45 as a practitioner of mortuary science under the personal instruction and su-
 46 pervision of a person duly licensed as a practitioner of mortuary science and
 47 who has an annual case volume as hereinafter provided in section 18 of this
 48 act.

1 3. Section 4 of the act of which this act is amendatory is amended to
 2 read as follows:

3 4. There is hereby created in the Division of Professional Boards in the
 4 Department of Law and Public Safety a State Board of Mortuary Science of
 5 New Jersey, which board shall consist of 5 members, each of whom shall be
 6 a citizen of the United States and a resident of the State of New Jersey,
 7 duly licensed as a practitioner of mortuary science and shall have
 8 had a minimum of 5 consecutive years of experience and practice as a prac-
 9 tioner of mortuary science in this State immediately preceding his appoint-
 10 ment. Subject to the provisions of section 45:1-2 of the Revised Statutes,
 11 members of the board shall be appointed annually by the Governor for a term
 12 of 3 years *and shall not serve more than 2 successive terms.* Each member
 13 shall hold office after the expiration of his term of office until his successor
 14 shall be duly appointed and qualified. Vacancies occurring by reason of the
 15 expiration of term of office shall be filled by the Governor in the calendar
 16 year in which any such vacancy occurs for a term of 3 years from July 1 of
 17 the year of appointment. Vacancies occurring by reason of the failure or
 18 neglect of the Governor to make appointments upon the expiration of terms
 19 of office as hereinabove provided and vacancies occurring for any other rea-
 20 son whatsoever shall be filled by the Governor for the unexpired term only.
 21 [Members of the Board of Embalmers and Funeral Directors holding office at
 22 the time this act becomes effective shall continue in office as members of the
 23 State Board of Mortuary Science of New Jersey for the remainder of the
 24 terms for which they were severally appointed.]

25 Any member of the State Board of Mortuary Science of New Jersey may
 26 be removed from office by the Governor, for cause, upon notice and oppor-
 27 tunity to be heard.

28 The Board of Embalmers and Funeral Directors of the State of New Jer-
 29 sey is hereby abolished and all of its functions, powers and duties, except as
 30 may be inconsistent with the provisions of this act, are hereby transferred to
 31 and vested in the State Board of Mortuary Science of New Jersey established
 32 hereunder. The State Board of Mortuary Science of New Jersey established
 33 hereunder and its functions, powers and duties shall in all respects be subject
 34 to the provisions of sections 30, 32, 33, 35, 37, 39 and 40 of chapter 439 of
 35 the laws of 1948.

1 4. Section 7 of the act of which this act is amendatory is amended to read
 2 as follows:

3 7. The board is authorized and empowered to adopt such rules and reg-
 4 ulations, not inconsistent with this *entire act or any amendment or supple-*
 5 *ment which may hereafter be adopted*, as shall be reasonably proper and ad-
 6 visable for the promotion or improvement of the standards of service, pro-
 7 tection and practice to be followed in the [professional] *practice* of mortu-
 8 ary science, embalming and funeral directing *by individuals, corporations,*
 9 *partnerships and associations* in the State of New Jersey, and for and in the
 10 interest, preservation and improvement of the public health, morals, safety
 11 and welfare.

12 *In addition to the powers otherwise herein granted to the board, the*
 13 *board is specifically empowered to adopt rules and regulations concerning the*
 14 *following:*

15 (a) *the manner in which a mortuary or funeral establishment is con-*
 16 *ducted,*

17 (b) *establish minimum requirements for a preparation room and as to*
 18 *the manner in which it shall be maintained,*

19 (c) *issuance of lists of licensees,*

20 (d) *trainees, apprentices and preceptors,*

- 21 (e) unethical or unprofessional conduct,
 22 (f) practice of mortuary science by individuals, corporations, partner-
 23 ships and associations.

1 5. Section 12 of the act of which this act is amendatory is amended to
 2 read as follows:

3 12. The board may, subject to the approval of the Attorney General, ap-
 4 point, employ or remove such assistants and employees as may be necessary
 5 to carry out the provisions of this act. [Such assistants and employees shall
 6 not be subject to the provisions of Title 11 of Revised Statutes of this State]
 7 The board may, subject to the approval of the Attorney General, appoint and
 8 employ an executive secretary annually at its reorganizational meeting whose
 9 duties shall be determined by the board and the board shall fix the compen-
 10 sation of its executive secretary, assistants and employees, subject to the ap-
 11 proval of the Attorney General, within the limits of available appropriations
 12 therefor. Such executive secretary shall not be subject to the provisions of
 13 Title 11 of the Revised Statutes of this State. No such executive secretary,
 14 employee or assistant shall engage in the practice of mortuary science, em-
 15 balming or funeral directing, nor shall he in any way be connected with the
 16 work of a practitioner of mortuary science, embalming or funeral directing.

1 6. Section 17 of the act of which this act is amendatory is amended to
 2 read as follows:

3 17. [Except as provided in section 21 of this act, from and after July 1,
 4 1952, t] The board shall grant only a single license as a practitioner of mor-
 5 tuary science to any applicant, and any person shall hold a license as a
 6 practitioner of mortuary science issued under the provisions of this act
 7 before being permitted to practice mortuary science or embalming or funeral
 8 directing in this State.

1 7. Section 18 of the act of which this act is amendatory is amended to
 2 read as follows:

3 18. (a) [Except as hereinafter provided in section 21 of this act, e] Every
 4 person desiring to enter into the practice of mortuary science [on and after
 5 July 1, 1952], before being licensed by the board so to do:

(1) Shall have passed an examination to be conducted by the board to determine his qualifications and fitness therefor. Such examination, the scope, character and content of which shall be determined by the board, shall be the same for all candidates at each examination, and shall include the following subjects: anatomy; physiology; pathology; chemistry; disinfection; hygiene; sanitary science; bacteriology; dissection; the care, preservation, embalming, transportation, burial or disposal of dead human bodies, including those dead as a result of contagious and infectious diseases; the signs of death and the manner in which death may be determined; laws and rules governing vital statistics and the preparation and transportation for burial of dead human bodies; the provisions of this act and of the rules and regulations adopted by the board; professional ethics; mortuary accounting; and such other subjects as the board may determine, by rule or regulation, to be necessary, proper or reasonably calculated to establish the qualifications and fitness of the applicant. Such examinations shall be in writing and shall be held at least once in each year, and oftener if the board shall so determine by rule or regulation, at such times and places as may be fixed by the board. In addition to the written examination herein provided for, the examination of each applicant shall include, wherever possible, an actual demonstration on a cadaver of the embalming proficiency and qualifications of the applicant.

(2) Shall have completed [3] 2 years of practical training and experience as a registered trainee in regular, steady, bona fide full-time service of a grade and character satisfactory to the board, in the State of New Jersey, with a person duly licensed as a practitioner of mortuary science under this act or as both an embalmer and funeral director under any prior law of this State and whose annual case volume shall be equal to at least [50] 25 cases, and shall have assisted in embalming at least 75 bodies; [for each registered trainee in his service; except that a person who has satisfactorily completed 1 academic year of instruction in a college or university approved by the board or who has satisfactorily completed 2 academic years of instruction in a school of mortuary science approved by the board need only have completed 2 years of practical training and experience as a registered trainee.] and shall

38 have satisfactorily completed a minimum of 2 academic years of instruction
 39 in a college or university approved by the State Department of Education and
 40 1 year of instruction in a school of mortuary science approved by the State
 41 Board of Mortuary Science; except that a person who has satisfactorily com-
 42 pleted 3 academic years of instruction in such a college or university and 1
 43 year of instruction in such an approved school of mortuary science need only
 44 have completed 1 year of practical training and experience as a registered
 45 trainee. Provided, however, that the requirement for 2 years' academic
 46 instruction in a college or university shall not apply to a trainee reg-
 47 istered prior to the effective date of this act and serving 3 years as a regis-
 48 tered trainee. Not more than 1 [2 registered] trainee [s] shall be registered
 49 [concurrently under any licensed person] at 1 time in 1 establishment, except
 50 that 2 trainees may be permitted if there are 2 or more licensees in the same
 51 establishment. The board is authorized and empowered to prescribe rules
 52 and regulations establishing minimum courses of college or university in-
 53 struction; to insure that each trainee receives satisfactory and efficient train-
 54 ing and experience which may provide for the periods that may be cred-
 55 ited toward the required year of training and experience, the nature, char-
 56 acter and extent of the services to be performed by the trainee, for such
 57 practical and actual experience in mortuary science and assisting in the same
 58 as it shall determine and for the making of such reports by the trainee and
 59 by the licensee with whom he is registered as may be advisable and for such
 60 other qualifications in the applicant as may be reasonably calculated to in-
 61 sure and protect the public health, morals, safety and welfare;

62 (3) Shall have, upon commencing his period of training and experience
 63 as provided in subdivision (a) (2) of this section registered as a trainee with
 64 the board, upon a form to be provided by the board, and has paid to the board
 65 a registration fee of \$50.00, and has received from the board a certificate as
 66 a registered trainee;

67 (4) Shall have been a resident of the State of New Jersey continuously
 68 during the period of his training and experience; and

69 (5) Shall have passed his twenty-first birthday.

70 (b) An applicant who meets the requirements of section 19 of this act
 71 shall be admitted to the examinations prescribed in subdivision (a) (1) of
 72 this section but a license to enter into the practice of mortuary science shall
 73 not be issued or granted to any such applicant by the board unless and until
 74 such applicant has completed the period of practical training and experience
 75 as a registered trainee required by subdivision (a) (2) of this section.

1 8. Section 19 of the act of which this act is amendatory is amended to
 2 read as follows:

3 19. [The board shall admit to examination or re-examination any appli-
 4 cant who pays] *No person shall be examined by the board except upon pay-*
 5 *ment of a fee of \$50.00 for the initial examination and a fee of [\$10.00]*
 6 *\$25.00 for each re-examination. Each applicant, before being admitted to an*
 7 *examination, shall first submit to the board*

8 (1) evidence verified by oath and satisfactory to the board that:

9 (a) He is a citizen of the United States and has been a resident of
 10 the State of New Jersey for a period of at least 6 months prior to the
 11 date of the examination;

12 (b) He is of good moral character *and at least 21 years of age;*

13 [(c) He has satisfactorily completed a regular 4-year high school
 14 course, or its equivalent, as determined by the State Board of Education
 15 and at least 1 academic year of instruction in a school of mortuary
 16 science approved by the board.]

17 (2) *a certificate from the Commissioner of Education of this State*
 18 *showing that before entering an embalming college or college of mortuary*
 19 *science he had obtained an academic education consisting of a 4 years' course*
 20 *of study in an approved public or private high school or the equivalent*
 21 *thereof, he has (a) satisfactorily completed a minimum of 2 years of aca-*
 22 *demic instruction in a college or university approved by the New Jersey De-*
 23 *partment of Education, satisfactorily completed a minimum of 1 year of aca-*
 24 *demic instruction in a school of mortuary science approved by the State*
 25 *Board of Mortuary Science; or (b) satisfactorily completed a minimum of 3*

26 years of academic instruction in such a college or university, satisfactorily
 27 completed a minimum of 1 year of academic instruction in such a school of
 28 mortuary science; and

29 (3) a certificate from a licensed practitioner of mortuary science in the
 30 State of New Jersey that he has served a 1-year or 2-year period of practical
 31 training as a registered trainee under such practitioner, whichever is appli-
 32 cable; such period of practical training as a registered trainee may be served
 33 either concurrently with the college or university courses, during summer
 34 vacations, or subsequent to the completion of the college or academic course,
 35 at the option of the registrant.

1 9. Section 20 of the act of which this act is amendatory is amended to
 2 read as follows:

3 20. If an applicant fails on the first examination, he may have 1 or more
 4 but not exceeding 3 additional examinations, which shall be taken within a
 5 period of 5 years immediately following the completion of his instruction in
 6 a school of mortuary science but not thereafter. If an applicant fails to pass
 7 4 examinations, he shall not thereafter be permitted to apply for a license
 8 under this act unless he shall repeat the full course of instruction in an ap-
 9 proved school of mortuary science. The board may, by rule or regulation, ex-
 10 tend the period of time within which an applicant to examination shall take
 11 his examination as provided in this section; provided, however, that such ex-
 12 tension of time may be granted only to applicants whose period of training
 13 and experience as registered trainees or whose period of college or university
 14 instruction or whose period of instruction in an approved school of mortuary
 15 science is interrupted by active duty in the military service of the United
 16 States.

1 10. Section 23 of the act of which this act is amendatory is amended to
 2 read as follows:

3 23. Any person holding a license or licenses under this act or under any
 4 prior law of this State [may] shall have the same renewed upon making and
 5 filing with the board an application therefor upon forms provided by the

6 board and upon payment of a renewal fee of \$10.00; provided, that any per-
 7 son neglecting or failing to have his license renewed, as above, [may] shall
 8 have the same renewed by making application therefor during the 6 months
 9 following the expiration date upon payment of a revival and renewal fee of
 10 \$50.00.

1 11. Section 28 of the act of which this act is amendatory is amended to
 2 read as follows:

3 28. The license of any practitioner of mortuary science or of any em-
 4 balmer and funeral director, or either, shall terminate upon his decease. [; but
 5 upon application to the board the practice of a deceased licensee who, at the
 6 time of his death, was practicing under his own name and not as a member
 7 of a partnership or as an officer, agent or employee of a corporation or as
 8 an employee of a partnership or of another licensee, may be continued for
 9 liquidation purposes and for the benefit of the widow or persons interested
 10 in the estate of the deceased and the name of the deceased licensee may be
 11 used for a period of not more than 5 years from the date of death of the li-
 12 censee or from the date this act becomes effective where such licensee has
 13 died prior to such effective date; provided, the practice is carried on under
 14 the supervision of a duly licensed practitioner of mortuary science or a duly
 15 licensed embalmer and funeral director in such manner as the board shall
 16 determine by rules and regulations.]

1 12. Section 31 of the act of which this act is amendatory is amended to
 2 read as follows:

3 31. After notice and hearing as hereinafter provided, the board may
 4 refuse to grant, or may suspend or revoke any license to practice mortuary
 5 science or to practice embalming and funeral directing, or either of them, in
 6 this State, if it determines that the holder of any such license has been guilty
 7 of any of the following acts or omissions:

8 (a) The employment of fraud and deception in applying for a license or
 9 a renewal of a license or in the passing of an examination provided for in
 10 this act or in any rule or regulation of the board;

11 (b) **["The violation of any provision of this act;"]** *(Deleted by amend-*
 11A *ment.)*

12 (c) **["The violation of any rule or regulation of the board adopted pur-**
 13 **suant to the provisions of this act;"]** *(Deleted by amendment.)*

14 (d) Violation of any State law **["or municipal or county ordinance"]** or
 15 regulation affecting the handling, custody, care or transportation of dead
 16 human bodies;

17 (e) Assigning, loaning, selling or fraudulently obtaining any license,
 18 record, or certificate for funeral directing **["or for operating or maintaining**
 19 **a mortuary],** or aiding or abetting therein;

20 (f) Gross incompetence;

21 (g) Chronic and persistent inebriety, or the habitual use of narcotics;

22-23 (h) Conviction of a crime involving moral turpitude; or where any
 24 licensee or applicant for a license has pleaded nolo contendere or non vult to
 25 any indictment, allegation or complaint, alleging the commission of a crime
 26 involving moral turpitude. The record of conviction or the entry of such a
 27 plea in any court of this State or any other State, or in any of the courts of
 28 the United States shall be sufficient warrant for the revocation or suspension
 29 of a license;

30 (i) Conviction in a court of competent jurisdiction of a high mis-
 31 demeanor;

32 (j) Unethical or unprofessional conduct or engaging in the prac-
 33 tice of mortuary science or the practice of embalming and funeral directing,
 34 or either of them, in a manner which is prejudicial to the public health,
 35 safety, morals and welfare;

36 (k) False **["]** or fraudulent **[" or misleading"]** advertising or will-
 37 fully advertising in any manner which is deceptive, misleading, improbable
 38 or unethical or which is calculated to deceive the public with respect to either
 39 merchandise or services, including the offering of free services;

40 (l) Any conduct which is of a character likely to deceive or defraud the
 41 public;

(m) The performance of any fraudulent act in the conduct of his practice.

Any person who commits any of these acts shall in addition be subject to a penalty of no more than \$1,000.00 to be enforced by the board pursuant to section 45:7-22 of this chapter.

The board is hereby empowered to promulgate rules and regulations for the enforcement of the aforesaid acts or omissions.

13. Section 35 of the act of which this act is amendatory is amended to read as follows:

35. Whenever the board shall have reason to believe that any person to whom a license has been issued is guilty of any of the acts or omissions specified in sections 31 to 34, inclusive, of this act, or whenever written complaint is filed with the board charging a person licensed as an embalmer, funeral director, or practitioner of mortuary science with any of said acts or omissions, it shall be the duty of the said board to conduct an investigation and if from such investigation it shall appear to the board that there is reasonable ground for belief that the accused may be guilty of the violations charged, a time and place shall be set by the board for a hearing to determine whether or not the [license of the accused shall be revoked] *accused is guilty as charged*. Complaints may be preferred by any person or the board may on its own motion direct its secretary to prefer a complaint.

14. Section 36 of the act of which this act is amendatory is amended to read as follows:

36. No hearing shall be held by the board *until there has been an investigation of the complaint and charges nor* until the accused has been furnished with a [statement] *copy* of the complaint and charges against him and a notice of the time and place of hearing thereof, the furnishing of said notice and the charges to be given said accused at least 15 days prior to the date of hearing. The accused [may] *shall be entitled to* be present at such hearing [in person or] *, shall be entitled to be represented* by counsel [or both to disprove the charges made against him] *and shall be entitled to cross-exam-*

11 *inc the witnesses testifying against him.* [If upon such hearing the board
12 finds the charges are true, it may revoke or suspend the license of the ac-
13 cused.] A stenographic [report] record or a sound recording of each pro-
14 ceeding [to revoke or suspend a license] shall be made at the expense of the
15 board [, and a transcript thereof kept in its files.]

1 15. Section 42 of the act of which this act is amendatory is amended to
2 read as follows:

3 42. The board shall report to the State Department of Health the name
4 and residence of every person to whom it may issue a license [and shall, be-
5 fore January 1, in each year, forward to the registrar of vital statistics of
6 each municipality a printed list duly verified, containing the names of all
7 licensed practitioners of mortuary science, funeral directors and embalmers
8 and such list shall be kept on file in such office]. The board shall issue to each
9 person granted a license an identification card stating that the holder thereof
10 has received a license and is carrying on the practice of mortuary science, or
11 of funeral directing or embalming. The proper holder of such a card shall
12 have the same right to carry on the practice of mortuary science, or of funeral
13 directing or embalming as those whose names appear on file in the office of
14 the registrar of vital statistics in each municipality.

1 16. In the interests of safeguarding public health, no person who oper-
2 ates, maintains, or uses a mortuary within this State shall serve, or permit or
3 suffer to be served on or about the mortuary premises any food or refresh-
4 ments in conjunction with any funeral or in conjunction with any service
5 offered or provided for the preparation and disposal of dead human bodies.

1 17. No person shall operate, maintain, or use a branch mortuary within
2 this State unless it is under the actual personal supervision, direction, man-
3 agement and actual control of a person who is duly licensed as a practitioner
4 of mortuary science or as a funeral director.

1 18. No person, firm or corporation shall solicit in person or through solici-
2 tors, agents or canvassers for the purpose of selling or contracting to sell or

3 provide any service or services commonly furnished or performed by an em-
4 balmer or funeral director.

1 19. Sections 21, 26, 27 and 29 of chapter 340 of the laws of 1952 are re-
2 pealed.

1 20. Sections 1 through 6 and 10 through 20 of this act shall take effect im-
2 mediately and sections 7, 8 and 9 shall take effect July 1, 1961.