



Ohio Revised Code

Section 4717.14 Disciplinary actions.

Effective: October 29, 2018

Legislation: House Bill 168 - 132nd General Assembly

(A) The board of embalmers and funeral directors may refuse to grant or renew, or may suspend or revoke, any license or permit issued under this chapter or may require the holder of a license or permit to take corrective action courses for any of the following reasons:

(1) The holder of a license or permit obtained the license or permit by fraud or misrepresentation either in the application or in passing the examination.

(2) The applicant, licensee, or permit holder has been convicted of or has pleaded guilty to a felony or of any crime involving moral turpitude.

(3) The applicant, licensee, or permit holder has recklessly violated any provision of sections 4717.01 to 4717.15 or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code; or any provisions of sections 4717.31 to 4717.38 of the Revised Code; any rule or order of the department of health or a board of health of a health district governing the disposition of dead human bodies; or any other rule or order applicable to the applicant or licensee.

(4) The applicant, licensee, or permit holder has committed immoral or unprofessional conduct.

(5) The applicant or licensee knowingly permitted an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the applicant's or licensee's supervision.

(6) The applicant, licensee, or permit holder has been habitually intoxicated, or is addicted to the use of morphine, cocaine, or other habit-forming or illegal drugs.

(7) The applicant, licensee, or permit holder has refused to promptly submit the custody of a dead



human body or cremated remains upon the express order of the person legally entitled to the body or cremated remains.

(8) The licensee or permit holder loaned the licensee's own license or the permit holder's own permit, or the applicant, licensee, or permit holder borrowed or used the license or permit of another person, or knowingly aided or abetted the granting of an improper license or permit.

(9) The applicant, licensee, or permit holder misled the public by using false or deceptive advertising. As used in this division, "false and deceptive advertising" includes, but is not limited to, any of the following:

(a) Using the names of persons who are not licensed to practice funeral directing in a way that leads the public to believe that such persons are engaging in funeral directing;

(b) Using any name for the funeral home other than the name under which the funeral home is licensed;

(c) Using in the funeral home's name the surname of an individual who is not directly, actively, or presently associated with the funeral home, unless such surname has been previously and continuously used by the funeral home.

(B)(1) The board of embalmers and funeral directors shall refuse to grant or renew, or shall suspend or revoke a license or permit only in accordance with Chapter 119. of the Revised Code.

(2) The board shall send to the crematory review board written notice that it proposes to refuse to issue or renew, or proposes to suspend or revoke, a license to operate a crematory facility. If, after the conclusion of the adjudicatory hearing on the matter conducted under division (F) of section 4717.03 of the Revised Code, the board of embalmers and funeral directors finds that any of the circumstances described in divisions (A)(1) to (9) of this section apply to the person named in its proposed action, the board may issue a final order under division (F) of section 4717.03 of the Revised Code refusing to issue or renew, or suspending or revoking, the person's license to operate a crematory facility.



(C) If the board of embalmers and funeral directors determines that there is clear and convincing evidence that any of the circumstances described in divisions (A)(1) to (9) of this section apply to the holder of a license or permit issued under this chapter and that the licensee's or permit holder's continued practice presents a danger of immediate and serious harm to the public, the board may suspend the licensee's license or permit holder's permit without a prior adjudicatory hearing. The executive director of the board shall prepare written allegations for consideration by the board.

The board, after reviewing the written allegations, may suspend a license or permit without a prior hearing.

Notwithstanding section 121.22 of the Revised Code, the board may suspend a license or permit under this division by utilizing a telephone conference call to review the allegations and to take a vote.

The board shall issue a written order of suspension by a delivery system or in person in accordance with section 119.07 of the Revised Code. Such an order is not subject to suspension by the court during the pendency of any appeal filed under section 119.12 of the Revised Code. If the licensee or permit holder requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the licensee or permit holder has requested a hearing, unless the board and the licensee or permit holder agree to a different time for holding the hearing.

Upon issuing a written order of suspension to the holder of a license to operate a crematory facility, the board of embalmers and funeral directors shall send written notice of the issuance of the order to the crematory review board. The crematory review board shall hold an adjudicatory hearing on the order under division (F) of section 4717.03 of the Revised Code within fifteen days, but not earlier than seven days, after the issuance of the order, unless the crematory review board and the licensee agree to a different time for holding the adjudicatory hearing.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicatory order issued by the board of embalmers and funeral directors pursuant to this division and Chapter 119. of the Revised Code, or division (F) of section 4717.03 of the Revised Code, as applicable, becomes effective. The board of embalmers and funeral directors



shall issue its final adjudicatory order within sixty days after the completion of its hearing or, in the case of the summary suspension of a license to operate a crematory facility, within sixty days after completion of the adjudicatory hearing by the crematory review board. A failure to issue the order within that time results in the dissolution of the summary suspension order, but does not invalidate any subsequent final adjudicatory order.

(D) If the board of embalmers and funeral directors suspends or revokes a funeral director's license or a license to operate a funeral home for any reason identified in division (A) of this section, the board may file a complaint with the court of common pleas in the county where the violation occurred requesting appointment of a receiver and the sequestration of the assets of the funeral home that held the suspended or revoked license or the licensed funeral home that employs the funeral director that held the suspended or revoked license. If the court of common pleas is satisfied with the application for a receivership, the court may appoint a receiver.

The board or a receiver may employ and procure whatever assistance or advice is necessary in the receivership or liquidation and distribution of the assets of the funeral home, and, for that purpose, may retain officers or employees of the funeral home as needed. All expenses of the receivership or liquidation shall be paid from the assets of the funeral home and shall be a lien on those assets, and that lien shall be a priority to any other lien.

(E) Any holder of a license or permit issued under this chapter who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in another jurisdiction for any substantially equivalent criminal offense, is hereby suspended from practice under this chapter by operation of law, and any license or permit issued to the individual under this chapter is hereby suspended by operation of law as of the date of the guilty plea, verdict or finding of guilt, or judicial finding of eligibility for treatment in lieu of conviction, regardless of whether the proceedings are brought in this state or another jurisdiction. The board shall notify the suspended individual of the suspension of the individual's license or permit by the operation of this division by a delivery system or in person



in accordance with section 119.07 of the Revised Code. If an individual whose license or permit is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the license.

(F) No person whose license or permit has been suspended or revoked under or by the operation of this section shall knowingly practice embalming, funeral directing, or cremation, or operate a funeral home, embalming facility, or crematory facility until the board has reinstated the person's license or permit.