

## **CHAPTER 25-08-02** **STANDARD OF PRACTICE**

### Section

|             |   |
|-------------|---|
| 25-08-02-01 | Unprofessional Conduct  |
| 25-08-02-02 | Advertising   |
| 25-08-02-03 | Solicitation of Business  |
| 25-08-02-04 | Offer, Solicitation, or Acceptance of Fees, Commissions, or Other Reimbursement |

### **25-08-02-01. Unprofessional conduct.**

A licensee or intern embalmer may not engage in or permit others under the licensee's supervision or employment to engage in unprofessional conduct. Unprofessional conduct includes:

1. Harassing, abusing, or intimidating a customer or a customer's family;
2. Using profane, indecent, or obscene language within the immediate hearing of the family or relatives of the deceased;
3. Failure to treat with dignity and respect the body of the deceased, any member of the family or relatives of the deceased, any employee, or any other person encountered while within the scope of practice;
4. Habitual overindulgence in the use of or dependence on intoxicating liquors, prescription drugs, over-the-counter drugs, illegal drugs, or any other mood-altering substances that substantially impair a person's work-related judgment or performance;
5. Intentionally misleading or deceiving any customer in the sale of any goods or services provided by the licensee;
6. Knowingly making a false statement in the procuring, preparation, or filing of any required permit;
7. Knowingly making a false statement on a certificate of death;
8. Conviction of an offense that has a direct bearing upon that individual's ability to provide professional services or for which it is determined the individual is not sufficiently rehabilitated;
9. Misrepresentation or fraud;
10. Solicitation, after death or while death is impending, for business by the licensee, or by the agents, assistants, or employees of the licensee. This subsection does not prohibit general advertising;
11. Gross immorality;
12. Aiding or abetting an unlicensed person to practice funeral service;
13. Refusing to surrender promptly the custody of a dead human body upon the express order of a person lawfully entitled to its custody;
14. Gross negligence or gross incompetency in the practice of funeral service;
15. Knowingly violating any state or federal laws regarding funeral service; or
16. Failing to complete the continuing education required by chapter 25-02-03.

**History:** Effective May 1, 1998; amended effective April 1, 2005.

**General Authority:** NDCC 43-10-05, 43-10-06.2

**Law Implemented:** NDCC 43-10-05, 43-10-06.2, 43-10-16

### **25-08-02-02. Advertising.**

A licensee or intern embalmer may not publish or disseminate false, misleading, or deceptive advertising. False, misleading, or deceptive advertising includes:

1. Identifying, by using the names or pictures of, persons who are not licensed to practice funeral service in a way that leads the public to believe those persons will provide funeral service;
2. Using any name other than the names under which the funeral establishment or crematory is known to or licensed by the board;
3. Using a surname not directly, actively, or presently associated with a licensed funeral establishment or crematory, unless the surname had been previously and continuously used by the licensed funeral establishment or crematory; and
4. Using a founding or establishing date or total years of service not directly or continuously related to a name under which the funeral establishment or crematory is currently or was previously licensed.

Any advertising or other printed material that contains the names or pictures of persons affiliated with a funeral establishment or crematory must state the position held by the persons and must identify each person who is licensed or unlicensed.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 43-10-05

**Law Implemented:** NDCC 43-10-05

### **25-08-02-03. Solicitation of business.**

A licensee may not directly or indirectly pay or cause to be paid any sum of money or other valuable consideration for the securing of business or for obtaining the authority to dispose of any dead human body.

**History:** Effective May 1, 1998.

**General Authority:** NDCC 43-10-05

**Law Implemented:** NDCC 43-10-05

### **25-08-02-04. Offer, solicitation, or acceptance of fees, commissions, or other reimbursement.**

A funeral practitioner or intern embalmer may not offer, solicit, or accept a commission, fee, bonus, rebate, or other reimbursement in consideration for recommending or causing a dead human body to be disposed of in a specific crematorium, mausoleum, or cemetery unless the funeral practitioner, intern embalmer, or their employer has an ownership interest in the crematorium, mausoleum, or cemetery.

**History:** Effective May 1, 1998; amended effective January 1, 2015.

**General Authority:** NDCC 43-10-05

**Law Implemented:** NDCC 43-10-05