

84-00220
OFFICE OF THE ATTORNEY GENERAL



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Warren S. Higgins
Executive Secretary
Alabama Board of Funeral Service
321 No. Hull St.
Montgomery, AL 36130

Funeral Service, Board of -
Embalmers - Licenses and Permits
- Florists

Employees of State Department of
Forensic Sciences not subject to
license under Section 34-13-1, et
seq. Section 34-13-56(2)j does
not prohibit commission to a
licensee from a florist, for sale
of flowers, nor does it prohibit
such sale by a licensee.

Dear Mr. Higgins:

You have, on behalf of the Board of Funeral Service
requested of this office an opinion regarding two questions:

1. Does Section 34-13-12 Code of Alabama
(1975) exclude employees of the State Department of
Forensic Sciences from the requirement of holding an
embalmer's license for such practice, since they
operate under state statutory authority?
2. Does Section 34-13-56(2)j prohibit receipt by
licensees of commissions from florists from the sale
of floral arrangements from a licensed funeral
establishment and does it prohibit the sale of floral
arrangements by a licensee as part of the services
provided by the establishment?

Considering your first question, we note that the State Department of Forensic Sciences is established pursuant to statute, Section 36-18-1, et seq., Code of Alabama 1975, as last amended, and comprises the office formerly known as the State Toxicologist, and his assistants. The duties of the Director of the Department of Forensic Sciences, his employees and assistants, are primarily directed to the investigation of unlawful, suspicious or unnatural deaths and crimes. The employees of the State Department of Forensic Sciences are not, per se, engaged in "the practice, science or profession, ... of preserving, disinfecting and preparing by application of chemicals or other effectual methods human dead for burial, cremation or transportation." Section 34-13-1(a) (2). Of course, in carrying out their duties, the officers and employees of the State Department of Forensic Sciences may in fact perform embalming procedures as a part of an investigation. In view of the fact that these activities are pursuant to statutory mandate, it is the opinion of this office that the officers and employees of the State Department of Forensic Sciences are not subject to any of the provisions of Section 34-13-1, et seq., Code of Alabama 1975, as last amended, which provide for the licensing of embalmers, funeral directors, etc. Accordingly your first question is answered in the negative.

Turning now to your second question, we note that Section 34-13-56(2)j, Code of Alabama 1975, prohibits "Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a human dead body to be disposed of in any mausoleum or cemetery; ..." As the sale of flowers does not comprise recommending or causing a human dead body to be disposed of in any mausoleum or cemetery, this section has no relevance to the sale of flowers. We note that Section 34-13-1(a)(16), in defining Funeral Directing, provides that the practice of directing or supervising funerals includes "the selling of or offering for sale of ... funeral supplies..", and Section 34-13-1(a)(14) defines funeral supplies to include "all equipment and accouterments normally required for the preparation for burial or funeral ..." It would appear, therefore, that, absent prohibition, a licensed funeral establishment could sell flowers as part of the services provided by the establishment. Accordingly the answer to your second question is also in the negative, Section 34-13-56(2)j does not prohibit payment of commissions to a licensee from a florist for the sale of floral arrangements, nor does it prohibit the sale of floral arrangements by a licensee.

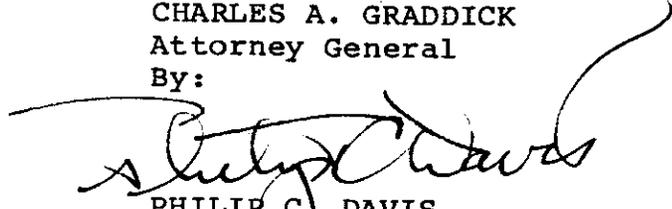
Warren S. Higgins
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I trust that the foregoing answers your questions, if this office can be of further service to you, please do not hesitate to let us know.

Yours very truly,

CHARLES A. GRADDICK
Attorney General

By:



PHILIP C. DAVIS
Assistant Attorney General

PCD/pd