§ 3429. Continuing education for funeral directors. 1. Definitions. As used in this section:

(a) "Biennium" means any two-year period for registration of individuals licensed to practice funeral directing or embalming in this state pursuant to section three thousand four hundred twenty-eight of this title;

(b) "Continuing education" means a course of instruction in a field of funeral directing, within the subjects listed in subdivision five of this section, taught by a provider registered with the department under subdivision four of this section;

(c) "Contact hour" means a period of between fifty and sixty minutes, continuously measured;

(d) "Provider" means a national, state or local trade association of funeral directors, a school for funeral directors approved under section three thousand four hundred twenty-five of this title or, with prior or provisional approval of course content by the department under subdivision four of this section, any other person or organization desiring to offer continuing education;

(e) "Trade association" means an organization, whether incorporated or not, whose primary class of members consists of ten or more firms under separate ownerships or twenty individuals in different employment, all registered under section three thousand four hundred twenty-eight of this title in an aspect of funeral service, which has been organized and maintained for at least two years prior to offering continuing education under this section for the collective benefit of its members.

2. Requirement. (a) Every person who renews a certificate of registration under section three thousand four hundred twenty-eight of this title shall file with the department, along with his or her biennial application for renewal, a certification attesting to the course or programs of instruction taken and successfully completed by such person and which clearly demonstrates that the person has completed the minimum number of hours of continuing education within the current biennium as set forth in subdivision three of this section.

(b) The department shall provide a certification form which shall require the following information:

(i) Applicant's full name and registration number;

(ii) Applicant's statement that he or she attended a specified number of hours of continuing education within the current biennium, consisting of courses identified by sponsor, date, location, and length of time in hours; and

(iii) Applicant's signature and date.

(c) This subdivision shall not apply to a funeral director, undertaker or embalmer who is an inactive registrant pursuant to subdivision nine of section three thousand four hundred twenty-eight of this title.

3. Minimum hours. The minimum hours of continuing education which an individual renewing registration must complete are:

(a) to renew for the first biennium commencing on June thirtieth, two thousand two, six hours within the current biennium concluding on such date.

(b) to renew for all subsequent biennia, twelve hours within each biennium, including at least two hours relating to applicable New York state laws and regulations affecting funeral directing, embalming and preneed services, which may be provided by the department or a provider registered pursuant to the provisions of subdivision four of this section.

4. Provider registration; course content approval. (a) Any person who is a provider and who desires to offer continuing education shall first register with the department and pay a registration fee of one hundred fifty dollars for the first biennium. A provider once registered may renew the registration for subsequent biennia for a fee of seventy-five dollars per biennium. The provider shall submit with its registration fee an affidavit which includes the following information and statements:

(i) Provider's name, address, telephone number, and, when known, names of individual instructors;

(ii) Provider's agreement to accept periodic monitoring of its courses by the department;

(iii) Provider's certification that the contents of each course are within the scope of subdivision five of this section;

(iv) Provider's commitment to verify attendance at each course and to maintain attendance records for department inspection for five years;

(v) Provider's commitment to establish a mechanism whereby licensees may evaluate the quality and content of each course taken as well as the provider's overall program when requested to do so by the department, and to maintain records of such evaluations for department inspection for five years;

(vi) Provider's agreement to submit to the department such evidence as is necessary to establish compliance with this section;

(vii) Provider's acknowledgment that disapproval by the department of a particular course or revocation of the provider's registration may result in nonrecognition of hours of continuing education from that provider; and

(viii) Provider's signature and date and verification by a notary public.

(b) A registered provider which is required to obtain prior approval of courses shall submit to the department a written description of each course for which approval is requested, at least sixty days prior to the first date the course is to be offered. If the department does not disapprove the proposed course within ninety days of its receipt of the written description and request for approval, the course shall be considered approved provisionally for six months. Following the six months of provisional approval, the department may make a final determination disapproving the course. Notwithstanding such determination, however, any individuals licensed pursuant to section three thousand four hundred twenty-eight of this title shall receive full continuing education credit for any course taken during the period of provisional approval to fulfill the requirements of this section.

(c) Any provider registered to offer continuing education under this section shall require each person taking instruction to display or provide, prior to admission or before the initiation of any such instruction, personal photo identification in the form of an automobile driver's license, passport or any other similar form of photo identification issued by a governmental entity, or a trade association as defined in this section. The provider may allow the use of a photocopy of such identification for computer-based or distance learning instruction.

(d) The department may impose a fine of no less than the biennial registration fee upon a provider who violates the provisions of this

section. For a second violation, the department may impose an additional fine of up to five hundred dollars and suspend the registration for the balance of the biennium. Nothing herein shall prevent the attorney general from bringing a civil action against any provider offering continuing education courses without the prior or provisional approval of the department.

(e) Registered provider status may be revoked by the department if the reporting requirements contained in this section are not met or, if upon review of the provider's performance, the department determines that the content of the course materials, the quality of the continuing education activities or the provider's performance does not meet the requirements set forth herein. In such event, the department shall send the provider by ordinary mail a notice of revocation. The revocation shall take effect no less than sixty days from the date such mailed revocation is postmarked. The provider may request a review of such revocation, and the department shall determine the request within thirty days. The decision of the department shall be final after such review.

(f) Section twelve of this chapter shall not apply to this section; provided, however, that any action by the department in suspending or revoking a provider registration in accordance with this subdivision shall be reviewable by the supreme court of the state of New York pursuant to the provisions of article seventy-eight of the civil practice law and rules.

5. Subjects of continuing education. The subjects of continuing education may be one or more of the following: aftercare, business administration, religion, natural sciences, management services, data processing, organ procurement, preneed services, jurisprudence (federal, state, and local), restorative arts and embalming, funeral service counseling, funeral customs, sanitation and infection control, and hospice and similar outreach programs.

6. Credit for preparation. A licensed funeral director may earn up to two hours of continuing education credit for preparing an hour of continuing education that he or she then teaches, and may earn the hour solely for teaching that material the first time. No one may earn more than six hours per biennium for preparation and teaching.

7. Classroom time; minimum percentage. A funeral director shall take at least fifty percent of his continuing education requirement each biennium in the form of receiving live classroom instruction. The remainder may be in other forms such as videotape, audiotape, teleconference, satellite seminars, internet coursework, credits for preparation, or correspondence coursework.

8. Licensees in other states. A funeral director licensed as such by the state of New York who is maintaining his or her registration in this state while residing in another state is subject to the requirements of this section. The department may grant a non-resident licensee credit for continuing education as required by the state in which such licensee resides, provided the department deems them equivalent to New York continuing education requirements as set forth herein.

9. Late filing; fines; grace period. (a) The department shall impose a fine equal to the biennial registration fee upon a registrant who fails to file the certification of continuing education within the time prescribed under subdivision two of this section, for the first such late filing. The department shall also allow such a registrant a grace period of one hundred twenty days into the biennium to comply with this section and to file the certification. After one hundred twenty days, the department shall suspend the registration for the balance of the biennium.

(b) A registrant who violates the filing requirements and deadlines of this section a second time shall, upon that and any subsequent violations, be subject to an additional fine of no more than five hundred dollars and suspension as the department may impose.

(c) A person who holds an inactive certificate of registration who wishes to reinstate an active registration shall complete twelve hours of continuing education prior to obtaining such active registration.

(d) A person whose registration has been suspended by the department for violating the filing requirements contained in this subdivision and who wishes to gain reinstatement of such registration shall complete twelve hours of continuing education and pay a reinstatement fee of two hundred fifty dollars to the department prior to obtaining reinstatement

of such registration.

(e) With respect to paragraphs (a) and (b) of this subdivision, the department shall send the registrant by ordinary mail a notice of suspension. The suspension shall take effect no less than sixty days from the date such mailed suspension is postmarked.

10. Funeral directors shall be exempt from the mandatory continuing education requirements prescribed herein for the biennium during which they are first licensed.

11. Enforcement. (a) The department may not renew the registration of a licensed funeral director who has not complied with this section.

(b) The department may audit at random the certifications of licensees and the affidavits of providers, and may suspend or revoke the registration and/or license of a person who has knowingly made a false statement under oath.