§ 3450. Suspension and revocation of licenses. 1. The commissioner may revoke or suspend any license of a funeral director, undertaker or embalmer and, if such licensee shall be the owner of, or a member of a partnership owning, a funeral firm or the licensed and registered manager of a funeral firm owned by a corporation, any certificate of registration of such firm, or may reprimand or otherwise discipline such licensee or funeral firm in accordance with the provisions of this article upon proof that such licensee or, in the case of such corporation, that the corporation or one or more of its officers or directors or one or more of its stockholders or other persons, firms or corporations having a ten per centum or greater proprietary, beneficial, equitable or credit interest therein:

(a) has violated any of the provisions of this article, the sanitary code, the rules and regulations of the commissioner or of any statute, code, rule or regulation relating to the practice of funeral directing, embalming, or vital statistics;

(b) has been convicted of a crime;

(c) has practiced fraud, deceit or misrepresentation in securing or procuring a license or admission to practice funeral directing, undertaking, or embalming;

(d) is incompetent to engage in the business or practice of funeral directing, undertaking, or embalming except that this provision shall not apply to an officer, director or stockholder of, or other person interested in, a corporation owning a funeral firm unless he shall be the licensed and registered manager thereof;

(e) has practiced fraud, deceit, or misrepresentation in his business or practice or in the business of such funeral firm;

(f) has committed acts of misconduct in the conduct of the business or practice of funeral directing, undertaking, or embalming or in the business of such funeral firm;

(g) is an habitual drunkard;

(h) is addicted to the use of morphine, opium, cocaine or other drugs having a similar effect;

(i) has practiced or conducted the business of such funeral firm without biennial registration of his license or of such firm;

(j) has employed, hired, procured or induced or otherwise aided or abetted any person not licensed or registered to practice or hold

himself out as licensed, practicing, or entitled to practice as an undertaker, or embalmer, or funeral director;

(k) has wrongfully transferred or surrendered possession, either temporarily or permanently, of his license or certificate of registration thereof or of the certificate of registration of such funeral firm to any other person, partnership or corporation;

(l) has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of funeral patronage, or has accepted any consideration (including without limitation a commission, rebate, or discount or direct or indirect price reduction on merchandise from the current value thereof) from any financial institution or trust company, or agent thereof, with whom the funeral director deposits funds paid for funeral services in advance of need pursuant to subdivision one of section four hundred fifty-three of the general business law except that the funeral director may accept, from the financial institution, trust company or agent thereof, up to twenty-five hundredths of one percent of the fee authorized under paragraph (b) of subdivision three of section four hundred fifty-three of the general business law for administrative services provided by the funeral director, or has accepted any consideration (including without limitation a commission or gift) from any insurer or agent thereof, to sell, offer or promote the sale of any policy of insurance payable, expressly or as marketed, at the death of the insured for funeral or burial expenses;

(m) has been guilty of fraudulent, misleading or deceptive advertising;

(n) has practiced funeral directing, undertaking or embalming, or has conducted business as a funeral firm, under a false name;

(o) has impersonated another licensee or another funeral firm of a like or different name; or

(p) has failed to comply with requirements set forth in section four hundred fifty-three of the general business law, relating to moneys paid in connection with agreements for funeral merchandise in advance of need to be kept on deposit pending use or repayment except, that revocation and suspension shall apply only in the case where a funeral director or funeral firm has committed repeated violations of these provisions or

has committed a violation of the provisions of section four hundred fifty-three of the general business law relating to failure to deposit or hold moneys on deposit; failure to return such moneys and interest thereon upon demand or upon the termination, cessation of operation or discontinuance of any funeral firm, or a successor in interest; or failure to comply with the requirements of paragraph (b) of subdivision five of section four hundred fifty-three of the general business law regarding compliance by transferors who receive such moneys.

2. The commissioner shall also have power, and after due notice and an opportunity to be heard, to revoke or suspend the endorsement of a funeral director, undertaker or embalmer license issued to any person pursuant to the provisions of this article or any previous law upon evidence that the duly constituted authorities of any state or political subdivision of the United States have lawfully revoked or suspended the funeral director, undertaker or embalmer license issued to such person by such state or political subdivision.

3. The action of the commissioner in revoking or suspending such license or certificate of registration of such funeral firm 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.

4. (a) A person convicted of a felony shall forfeit his license to practice as a funeral director, undertaker, or embalmer, and upon presentation to the department of a certified copy of a court record showing that he has been convicted of a felony, that fact shall be noted on the record of license, and the license shall be revoked, and the registration shall be cancelled.

(b) If such conviction be subsequently reversed on appeal and the accused acquitted or discharged, his license shall become again operative from the date of such acquittal or discharge.

(c) The conviction of a felony aforementioned shall include the conviction of a felony by any court in this state or by any court of the United States or by any court of any other state of the United States; provided, however, that if a crime of which the licensee is convicted by any court of the United States or by any court of any other state is a

felony in the jurisdiction in which the conviction is had but is not a felony in the state of New York, then the conviction shall not be deemed a conviction of a felony for the purposes of this article. In the event that a crime of which the licensee is convicted by any court of the United States or by any court of any other state is not a felony in the jurisdiction in which the conviction is had but is a felony in the state of New York, then the conviction shall be deemed a conviction of a felony for the purposes of this article.