

74-1706. Injunction or quo warranto for unlawful practice. An action in injunction or quo warranto may be brought and maintained in the name of the state board of mortuary arts of the state of Kansas, to enjoin or oust from the unlawful practice of embalming or funeral directing any person who shall in any manner practice or attempt to practice embalming or funeral directing in the state of Kansas, as defined by the laws of Kansas, in violation of the laws or the rules and regulations of the board. Nothing herein contained shall confer upon the district courts of the state the right to grant temporary restraining orders or temporary injunctions under this act, and no injunction matter shall be heard or decided until the defendant has an opportunity to present a defense. The court shall require the issues in such cases to be joined without delay and shall set the same for trial immediately thereafter.

The authority conferred by this statute shall be in addition to, and not in lieu of, authority to prosecute criminally any person unlawfully engaged in the practice of embalming or funeral directing in this state, and shall also be in addition to the right of the board to suspend or revoke the license to the person complained against. The granting and enforcement of an injunction or quo warranto to prevent the unlawful practice of embalming or funeral directing is a preventative measure, and not a punitive measure, and the fact that a person has been charged with or convicted of criminally having practiced embalming or funeral directing shall not prevent the issuance of a writ of injunction or quo warranto to prevent such person's further practice of embalming or funeral directing. The fact that a writ of injunction or quo warranto has been granted to prevent further practice shall not preclude the institution of criminal prosecution and punishment.

History: L. 1941, ch. 297, § 4; L. 1976, ch. 145, § 235; L. 1985, ch. 215, § 22; July 1.