

CEMETERY AND FUNERAL BUREAU

Final Language

(1) Amend Section 2326 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326. Applications for Cemetery and Crematory Certificates of Authority

(a) Certificate of Authority. Applications for a certificate of authority to operate a cemetery shall be filed on the form furnished by the bureau 23-C (12/12) at the principal office of the bureau. In addition to the payment of the fees required by Section 2311 of these rules, each application shall be accompanied by the following:

(1) A certified copy of:

(A) Articles of incorporation.

(B) Application for permit to sell and issue securities.

(C) Permit to sell and issue securities.

(D) Application to the city or county planning commission for a cemetery use permit or rezoning for cemetery purposes, or both.

(E) Land use or zoning permit.

(F) Declaration of dedication to cemetery purposes certified by the county recorder.

(G) Deed to the property, contract of purchase or any other instrument which provides the applicant with merchantable title thereto.

(H) Endowment care trust agreement executed by the board of directors of the cemetery authority.

(2) A statement signed by a majority and verified by one of the directors of the applicant, which statement shall set forth:

(A) Names and addresses of the incorporators, directors, officers, and trustees of the endowment care fund, including the person who will be in charge of sales, together with a statement of their experience and fitness to engage in cemetery business.

(B) Statement of compensation received or to be received by the officers, directors and all sales agents and/or managers.

(C) A complete and detailed financial statement showing assets, liabilities and reserve.

1. If the applicant is a new corporation, the statement shall designate the amount of stock subscribed, the consideration paid for all stock issued and the amount of promotional stock involved.

2. If the applicant has engaged in business for a period of time, the statements shall include complete operating profit and loss statements for the preceding three (3) years or such period of time as the applicant has been in business if less than three (3) years.

(D) Itemized statement of estimated receipts (from all sources, capitalization, sales, loans, etc.) and expenditures of the applicant for at least five (5) years or such other period as the ~~board~~ bureau may require by written notice to the applicant.

(E) A statement setting forth the size, location and topography of, and water available for, the property to be used for cemetery purposes.

(F) A statement of the applicant's proposed plan of operation which shall include type of selling, approximate size or sales department, number of acres initially developed, etc.

(G) Statement of the amount deposited to the endowment care fund, type of investment made or to be made and the proposed rate of contribution for the future.

(3) An independent confirmation from the depository or other such proof of deposit of the initial contribution to the endowment care fund as required by Section 8738.1 of the Health and Safety Code of the State of California.

(4) A good and substantial map of the proposed cemetery site (scale not less than one inch (1") to five hundred feet (500')) and surrounding area showing

highways, access roads, etc., and area to be initially developed delineated thereon.

(5) Such other matters as the bureau may require by written notice to the applicant.

(b) In addition to complying with (a), (1), (a)(B) through (a)(H), 2 (E), 2(F), 2(G), (3), (4), and (5), a limited liability company applying for a certificate of authority must also include the following:

(1) List of all employees issued a license by the bureau accompanied by form 23-LB (12/12)

(2) Proof of adequate security in the form of insurance accompanied by form 23-LB (12/12), or net worth confirmation accompanied by form 23-NW (12/12)

(3) Names of all limited liability company members accompanied by a certification affidavit

(4) Articles of Organization and Operating Agreement; if a corporation is a member of the limited liability company, the Articles of Incorporation must be submitted

(5) Statement of Information

(6) Names and addresses of trustees of the endowment care fund and the person who will be in charge of sales, together with a statement of their experience and fitness to engage in cemetery business

(c) Crematory License Application. Application for a crematory license shall be filed on the form furnished by the bureau 23-C (12/12) at the principal office of the board bureau. In addition to the payment of the fees required by Section 2311 of these rules, each application shall be accompanied by the following:

(1) A certified copy of:

(A) Articles of incorporation, if applicant is a corporation.

(B) Partnership agreement, if applicant is a partnership.

(C) Land use or zoning permit.

(D) Permit to operate a crematory issued by the local air pollution control district.

(E) Deed, lease or other instrument which provides the applicant with the right to possess and use the property where the business will be located.

(2) A statement signed by the applicant if the applicant is an individual; signed by the majority and verified by one (1) of the directors, if the applicant is a corporation; or signed and verified by a majority of the partners, if applicant is a partnership, which statement shall set forth:

(A) A complete and detailed financial statement showing assets, liabilities, and reserves.

(B) A statement of proposed plan of operation which shall include the type of selling.

(C) A full, true, and complete copy of the standard agreement which will be used for funding of prearranged cremations.

(3) Plans and specifications of the crematory and building, which must be sufficient to allow the bureau to determine, among other things:

(A) Fire resistant character.

(B) Adequacy of storage for cremated and uncremated remains.

(4) Such other matters as the bureau may require by written notice to the applicant.

Note: Authority cited: Section 9630, 9653.5, and 9653.6, Business and Professions Code. Reference: Sections 9715, 9716, 9717, 9765, 9781, 9782, 9783 and 9786, Business and Professions Code; and Section 8738.1, Health and Safety Code.

(2) Amend Section 2326.1 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326.1. Managers

(a) Each cemetery for which a new certificate of authority is required shall be operated under the supervision of a managing officer qualified as such by the bureau. If the applicant for a new certificate of authority is a limited liability company, no managing officer may have an ownership interest as a member of the limited liability company.

(1) The applicant for a new certificate of authority, in addition to the requirements of Section 2326, will designate the managing officer. There shall be submitted with the application the written statement of such officer demonstrating that he or she has two (2) years' experience in the cemetery business, or equivalent experience, which experience shall be commensurate with the size, type, and scope of the proposed activities of the cemetery authority. Additional managing officers who have been qualified and examined by the bureau may be designated by the applicant and can succeed the managing officer in the event of death, resignation, disability, surrender of license, or other inability to perform the required duties.

(b) Each crematory for which a crematory license is required shall be operated under the supervision of a manager designated by the applicant and qualified as such by the bureau. Additional managers who have been qualified and examined by the bureau may be designated by the applicant and can succeed the manager in the event of death, resignation, disability, or other inability to perform the required duties.

Note: Authority cited: Sections 9630 9653.5, 9653.6, and 9787, Business and Professions Code. Reference: Sections 9715, 9717, and 9787, Business and Professions Code.

(3) Add Section 2326.2 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326.2. Limited Liability Definitions.

For the purpose of the rules and regulations contained in this chapter, the term "crematorium licensee" means a licensed crematory or a licensed crematory manager. The term "intrastate business" means entering into repeated and successive transactions within California.

Note: Authority cited: Sections 9630, 9631, 9653.5, and 9653.6, Business and Professions Code. Reference: Section 191, Corporations Code.

(4) Add Section 2326.3 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326.3 Net worth.

Any Limited Liability Company licensed as a certificate of authority that chooses to utilize the net worth security option shall transmit evidence of their net worth to the bureau on form 23-NW (12/12) annually with their endowment care fund and special care fund report.

Note: Authority cited: Sections 9630 and 9653.5, Business and Professions Code. Reference: Sections 9650, 9701 and 9702.1, Business and Professions Code.

(5) Amend Section 2326.5 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326.5. Approval to Share a Cemetery Manager.

Licensed cemeteries, upon approval by the Bureau, may designate a licensed cemetery manager to manage more than one licensed cemetery under the following conditions:

(a) The license cemeteries are under common ownership;

(b) The common owner has designated one cemetery as the main office. The main office is defined as a designated location registered with the Bureau where the principals of the licensed cemetery can be contacted;

(c) The licensed cemeteries are within a 60 mile radius of the main office;

(d) Each licensed cemetery requesting permission from the Bureau to share one designated cemetery manager, shall make a written request on application Form 21A2 (10/03) to the Bureau and pay the fee for requesting to share a designated cemetery manager. If the applicant is a limited liability company, no managing officer may have an ownership interest as a member of the limited liability company. An inspection may be scheduled and completed to ensure that the conditions set forth in this section have been satisfied.

(e) The procedure for considering and granting approval to share a cemetery manager under this section shall be as follows:

(1) The Bureau shall inform an applicant requesting approval to share a cemetery manager, in writing, within 14 days of receipt whether the application is complete and

acceptable for filing or is deficient and what specific information is required to complete the application.

(2) The Bureau shall make a decision within 30 days after the application is deemed to be completed whether the applicant meets the requirements for approval to share a cemetery manager. "Completion of an application" means that the applicant has filed a completed application form together with all required information, documentation, and fee.

(3) The minimum, median and maximum processing times for an application for approval to share a cemetery manager from the date of acceptance and filing of the initial application until the Bureau makes a final decision on the application are:

(A) Minimum - 7 days.

(B) Median - 14 days.

(C) Maximum - 30 days.

Note: Authority cited: Section 9630, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 9653.5, 9653.6, 9723 and 9723.2, Business and Professions Code; and Section 15376, Government Code.



Limited Liability Company Bureau Licensed Employee Form

The Cemetery and Funeral Bureau (bureau) requires that all limited liability companies engaged in the operation of a Certificate of Authority (cemetery) complete the following form to comply with Business and Professions Code Sections 9653.5 and 9653.6. Please attach a list naming all employees licensed by the bureau, a list of names and addresses of members of the limited liability company, and proof of adequate security for claims.

Name of limited liability company (LLC):		Jurisdiction where LLC is organized:			
Address of principle office:		Number and Street	City	State	Zip Code
Name of cemetery:		License Number:		Number of licensed employees:	
Physical address of cemetery:		Number and Street	City	State	Zip Code

The LLC confirms that it has provided security for claims against it based upon acts, errors, or omissions of its licensed employees through either one or a combination of the following: (1) liability insurance of not less than \$1,000,000 for up to five licensed employees plus an additional \$100,000 for every licensed employee over five, not to exceed \$5,000,000, (2) a trust or bank escrow, cash, bank CDs, U.S. Treasury obligations, bank letters of credit, or bonds of insurance or surety companies or security for payment of liabilities of not less than \$1,000,000 plus an additional \$100,000 for each additional licensee over five by not exceeding \$5,000,000, or (3) in the most recently completed fiscal year it had a net worth equal to or exceeding \$10,000,000. The net worth information on the form should reflect the most recently completed fiscal year of the limited liability company. If the LLC elects not to utilize the net worth option, each of the members automatically guarantees payment of the difference between the maximum amount of security required, up to \$5,000,000, and the security otherwise provided in accordance with (1) and (2) above provided that the aggregate amount paid by all members shall not exceed the difference. The LLC may aggregate the security required as outlined above, provided that there is no duplication or overlap between any security counted in (1) or (2) and any amounts used to establish the net worth of the LLC in (3).

Signature _____

Date _____

Print Name _____

Title _____

Note: All items on this form are mandatory; none are voluntary, unless indicated. Per California Civil Code Section 1798.17 (Information Practice Act), the Chief of the Cemetery and Funeral Bureau is responsible for maintaining information on this form. This information may be transferred to other governmental and enforcement agencies. Individuals have the right to review the records maintained on them by the agencies, unless the records are exempt by Section 1798.40 of the Civil Code. Requests for information may be addressed to the custodian of records: Bureau Chief, Cemetery and Funeral Bureau, 1625 North Market Blvd., Suite S-208, Sacramento, CA 95834, (916) 574-7870.



Limited Liability Company Net Worth Confirmation

The Cemetery and Funeral Bureau (bureau) requires that all limited liability companies engaged in the operation of a Certificate of Authority (cemetery) complete the following form to comply with Business and Professions Code Section 9653.5. The information included on the form should reflect the most recently completed fiscal year of the limited liability company, and be submitted to the bureau within four months of the completion of said fiscal year.

Name of limited liability company:		License Number:		
Address of principle office: <small>Number and Street</small>		<small>City</small>	<small>State</small>	<small>Zip Code</small>
Name of cemetery:				
Physical address of cemetery: <small>Number and Street</small>		<small>City</small>	<small>State</small>	<small>Zip Code</small>

Under penalty of perjury, as an authorized representative of the above-named limited liability company, I certify that, as of the most recently completed fiscal year, the limited liability company had a net worth equal to or exceeding ten million dollars (\$10,000,000).

 Signature

 Date

 Print Name

 Title



REQUIRED SUBMISSIONS FOR COMPLETING THE APPLICATION FOR CERTIFICATE OF AUTHORITY

1. Completed Certificate of Authority application with the filing fee of \$400.00.
2. A corporate resolution delegating authority to submit the application on behalf of the corporation.
3. A certified copy of your Articles of incorporation (may be obtained from the Secretary of State's web site located at www.ss.ca.gov/business).
4. Application for permit to sell and issue securities or permit to sell and issue securities. If not applicable, submit a statement that securities will not be sold or issued.
5. Application to the city or county planning commission for a cemetery use permit or rezoning for cemetery purposes, or a certified copy of a land use or zoning permit.
6. Declaration of dedication for cemetery purposes certified by the county recorder.
7. Deed to the property, contract of purchase or any other instrument which provides the applicant with merchantable title thereto.
8. Endowment care trust agreement executed by the board of directors of the cemetery authority.
9. **A statement signed by a majority and verified by one of the directors of the applicant, which statement shall set forth the following eleven requirements:**
 - A. Names and addresses of the incorporators, directors, officers, trustees of the endowment care fund, the cemetery broker and the designated cemetery manager, together with a statement of their experience and fitness to engage in the cemetery business.
 - B. Statement of compensation received or to be received by the officers, directors and sales agents and/or manager.
 - C. A complete and detailed financial statement showing assets, liabilities and reserve.
 - D. If the applicant is a new corporation, the statement shall designate the amount of stock subscribed, the consideration paid for all stock issued and the amount of promotional stock involved.
 - E. If the applicant has engaged in business for a period of time, the statements shall include complete operating profit and loss statements for the preceding three (3) years, or such period of time as the applicant has been in business if less than three years.
 - F. An itemized statement of estimated receipts (from all sources, capitalization, sales, loans, etc.) and expenditures of the applicant for at least five (5) years or such other period as the Bureau may require by written notice to the applicant.
 - G. A statement setting forth the size, location and topography of, and water available for, the property to be used for cemetery purposes.
 - H. A statement of the applicant's proposed plan of operation, which shall include type of selling, approximate size of sales department, along with number of acres initially developed.
 - I. A statement of the amount deposited to the Endowment Care Fund, type of investment made or to be made and the proposed rate of contribution for the future.
 - J. An independent confirmation from the depository or other such proof of deposit of the initial contribution of \$35,000.00 to the endowment care fund as required by Health and Safety Code (HSC) § 8738.1.
 - K. A \$50,000.00 Fidelity bond coverage for Endowment and Special Care Fund Trustees, (HSC § 8734).
10. Submit Certification Affidavit's for all officers and trustees.
11. Verification of publication of change of ownership (if applicable).
12. Once all required documents have been submitted and approved by the Bureau, a field representative will inspect your cemetery before final approval is given and a Certificate of Authority license issued. As part of the inspection process, the field representative will review your cemetery maps. Please have available for inspection a copy of the map(s) that have been filed with the county recorder for retention by the field representative. Upon completion of a satisfactory inspection, the field representative will submit the maps to the Cemetery and Funeral Bureau in accordance with the licensing requirement.



APPLICATION FOR CERTIFICATE OF AUTHORITY
FILING FEE \$400

COA NUMBER ISSUED

SECTION A: CEMETERY INFORMATION					
Name of Cemetery				License number (If an existing Cemetery) COA	
New Name of Cemetery (If applicable)			Telephone Number ()		
Address of Cemetery		City	State CA	Zip Code	
Mailing Address of Cemetery (If different than above)		City	State	Zip Code	
Fax Number ()		Email address (Not required)			
SECTION B: NAME OF PERSON FILING THE APPLICATION (Attach a corporate resolution delegating authority to applicant to submit the application on behalf of the corporation.)					
Last Name		First		Telephone Number (If different than above) ()	
Mailing Address (For correspondence relating to this application, if different than above.)			City	State	Zip Code
SECTION C: NAME OF DESIGNATED CEMETERY MANAGER (Attach a written statement demonstrating two years experience in the cemetery business in a cemetery of the same size, type, and scope of operation.)					
Last Name		First		License Number CEM	Expiration Date
SECTION D: APPROVAL TO SHARE CEMETERY MANAGER (If applicable, must be under common ownership and within 60 miles of the designated main office.)					
Name of Cemetery Designated as Main Office				License Number COA	Miles From New Cemetery
Address of Main Office		City	State CA	Zip Code	
COA Numbers for Additional Cemeteries Managed.	COA #	COA #	COA #	COA #	COA #
SECTION E: CORPORATION/LLC					
Name and principal office address:			Limited Liability Company (circle one) Yes No		
Incorporated in State of:			Jurisdiction where LLC is Organized:		
Date Incorporated:			California Secretary of State Registration # (For LLC applicants)		
FOR OFFICE USE ONLY					
Date Cashiered	Amount Cashiered		ATS Number		Receipt Number

Affidavit's	CEM	Broker	Inspection Notice Sent	License Issued On
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SECTION F: CORPORATE OFFICERS and LLC MEMBERS (List Names and Titles of the Top 4 Corporate Officers and all members.)

Title	Last Name	First	Middle Initial

ATTACH A COMPLETED CERTIFICATION AFFIDAVIT FOR EACH OFFICER AND MEMBER.

SECTION G: TRUSTEES (List all Trustees, only one Trustee can be an Officer or Employee of the Corporation; no trustee can be a member of the LLC.)

Last Name	First	Middle Initial

ATTACH A COMPLETED CERTIFICATION AFFIDAVIT FOR EACH TRUSTEE.

SECTION H: APPLICANT CERTIFICATION

I certify under penalty of perjury under the laws of the State of California that all statements furnished in connection with this application are true and accurate.

Signature	Title	Date
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Note: The information solicited on this form is required pursuant to Business and Professions Code Sections 9702.1 and 9715. All items in this application are mandatory; none are voluntary, unless indicated. Failure to provide any of the requested information will result in the application being considered incomplete, (incomplete applications are subject to abandonment one year from the date the applicant is notified of deficiencies). All information provided will be used to determine qualification for licensure, per the Business and Professions Code Section that authorizes the collection of this information. Per California Civil Code Section 1798.17, (Information Practice Act), the Chief of the Cemetery and Funeral Bureau is responsible for maintaining information in this application. This information may be transferred to other governmental and enforcement agencies. Individuals have the right to review the records maintained on them by the agencies, unless the records are exempt by Section 1798.40 of the Civil Code. Requests for information may be addressed to The Custodian of Records, Bureau Chief, Cemetery and Funeral Bureau, 1625 North Market Blvd., Sacramento, CA 95834 (916) 574-7870

Effective July 1, 2012, the State Board of Equalization and the Franchise Tax Board may share taxpayer information with the bureau. You are obligated to pay your state tax obligation and your license may be suspended if the state tax obligation is not paid per Business and Professions Code Section 31(e).



CERTIFICATION AFFIDAVIT

To be completed by each Owner, Partner, Officer, Trustee, and member of a limited liability corporation (Make additional copies as needed).

I am completing this Affidavit as a:			
<input type="checkbox"/> Sole Owner	<input type="checkbox"/> Partner	<input type="checkbox"/> Officer	<input type="checkbox"/> Trustee
<input type="checkbox"/> LLC Member			
Name of Funeral Establishment, Cemetery, Crematory or Corporation this affidavit is being submitted on behalf of			
Phone Number ()		License Number	
Last Name		First	M.I.
Address		City	State
		Zip Code	
Date of Birth	Social Security Number		Title
Have you every been issued a personal license by the Cemetery and Funeral Bureau?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, provide license type(s), number(s), and date(s) issued _____			
Have you previously submitted fingerprint cards or a copy of a Request for Live Scan Service Form to the Cemetery and Funeral Bureau?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, for what license, and the approximate date. _____			
If no, submit a copy of your completed Request for Live Scan Service form, along with this application, verifying that fingerprints have been scanned and all applicable fees have been paid.			
Have you ever been convicted of, or pled no contest to, a violation of any law of a foreign country, the United States, any state or local jurisdiction? You must include all misdemeanor and felony convictions, regardless of the age of the conviction, including those which have been set aside and/or dismissed under Penal Code section 1000 or 1203.4. (Traffic violations of \$500 or less need not be reported.)			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "yes," please attach an explanation that includes the type of violation, the date, circumstances and location, and the complete penalty received.			
Have you ever had any professional or vocational license or registration denied, suspended, revoked, placed on probation or other disciplinary action taken by this or any other governmental authority in this state or any other state, or any foreign country			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "yes," please attach an explanation that includes license type, action, and company name (if applicable), year of action and state.			

I hereby certify under penalty of perjury under the laws of the State of California to the truth and accuracy of all statements, answers and representations made in the foregoing certification affidavit, including all supplementary statements.

Signature _____
Date

FOR BUREAU USE ONLY		
Fingerprints on File with	Live Scan Results Received on	
Approved by	Enforcement Approval	Date

Section 30 of the Business and Professions Code and Public Law 94-455 (42 U.S.C.A. 405 (c)(2)(c)) authorizes the collection of your Social Security Number (SSN). The disclosure of your SSN is mandatory. The information will be used exclusively for tax enforcement purposes and for purposes of compliance with Section 11350.6 of the Welfare and Institutions Code. If you fail to disclose your SSN, you will be reported to the Franchise Tax Board, which may assess a \$100.00 penalty against you. Questions regarding this requirement must be directed to the Franchise Tax Board: So. California (800) 852-7050, No. California (800) 852-5711, or Sacramento at (916) 369-0500.

Effective July 1, 2012, the State Board of Equalization and the Franchise Tax Board may share taxpayer information with the bureau. You are obligated to pay your state tax obligation and your license may be suspended if the state tax obligation is not paid per Business and Professions Code Section 31(e).