

CEMETERY AND FUNERAL BUREAU

Proposed Language (Order of Adoption)

(1) Amend Section 1240 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

§ 1240. Issuance of Citations; Content.

(a) The bureau is authorized to issue citations containing orders of abatement and assessing administrative fines for violations by any licensee of the bureau ~~of any provision of the Funeral Directors and Embalmers Law or of any regulation adopted by the bureau, as specified in Section 1241 of this article.~~ For the purposes of this Article, a citable offense is any violation of the statutes and regulations enforced by the Cemetery and Funeral Bureau.

(b) Each citation shall be in writing and shall describe with particularity the nature of the violation, including reference to the statute or regulation alleged to have been violated. Each citation shall contain a statement informing the cited person or entity of his, her or its right to contest the citation and to request a hearing pursuant to subdivision (b)(4) of Business and Professions Code Section 125.9, and Section 1245 of this code. Each citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable period of time for abatement of the violation, or both an administrative fine and an order of abatement. Each citation shall be served in accordance with the provisions of Section 11505(c) of the Government Code.

(c) If a hearing is not requested pursuant to subdivision (b)(4) of Business and Professions Code Section 125.9, and Section 1245 of this code, payment of any fine shall not constitute an admission of the violation charged.

Note: Authority cited: Sections 125.9, ~~125.95~~, 7606 and 7740, Business and Professions Code. Reference: Sections 125.9 and ~~125.95~~, Business and Professions Code.

(2) Amend Section 1241 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1241. Classes of Violations; Assessment of Fines.~~

~~(a) Violations of the following code sections shall be designated Class A violations, the administrative fine for which may range from one thousand one dollars (\$1,001.00) to two thousand five hundred dollars (\$2,500.00). In no event shall the administrative fine be less than \$100 or exceed \$5,000 for each violation.~~

~~(1) Business and Professions Code Section 7615, 7616 and 7617.~~

- ~~(2) Business and Professions Code Section 7632.~~
- ~~(3) Business and Professions Code Section 7640 and 7641.~~
- ~~(4) Business and Professions Code Section 7692.~~
- ~~(5) Business and Professions Code Section 7692.5.~~
- ~~(6) Business and Professions Code Section 7705.~~
- ~~(7) Business and Professions Code Section 7707.~~
- ~~(8) Business and Professions Code Section 7737.~~
- ~~(9) California Code of Regulations Section 1258.2.~~
- ~~(10) California Code of Regulations Section 1262.~~
- ~~(11) California Code of Regulations Section 1263(b).~~
- ~~(12) California Code of Regulations Section 1268.~~

~~(b) Violations of the following code sections shall be designated Class B violations, the administrative fine for which may range from five hundred one dollars (\$501.00) to one thousand dollars (\$1,000.00):~~

- ~~(1) Business and Professions Code Section 7623.~~
- ~~(2) Business and Professions Code Section 7629.~~
- ~~(3) Business and Professions Code Section 7635.~~
- ~~(4) Business and Professions Code Section 7685.~~
- ~~(5) Business and Professions Code Section 7685.1.~~
- ~~(6) Business and Professions Code Section 7685.2.~~
- ~~(7) Business and Professions Code Section 7685.3.~~
- ~~(8) Business and Professions Code Section 7693.~~
- ~~(9) Business and Professions Code Sections 7694, 7695, 7696 and 7697.~~
- ~~(10) Business and Professions Code Section 7699.~~

- ~~(11) Business and Professions Code Section 7702.~~
- ~~(12) Business and Professions Code Section 7706.~~
- ~~(13) Business and Professions Code Section 7735.~~
- ~~(14) California Code of Regulations Section 1204.~~
- ~~(15) California Code of Regulations Section 1213.~~
- ~~(16) California Code of Regulations Section 1214.~~
- ~~(17) California Code of Regulations Section 1216.~~
- ~~(18) California Code of Regulations Section 1221.~~
- ~~(19) California Code of Regulations Section 1223.~~
- ~~(20) California Code of Regulations Section 1223.1.~~
- ~~(21) California Code of Regulations Section 1229.~~
- ~~(22) California Code of Regulations Section 1258.1.~~
- ~~(23) California Code of Regulations Section 1258.3.~~
- ~~(24) California Code of Regulations Section 1263(a).~~
- ~~(25) California Code of Regulations Section 1264.~~
- ~~(26) California Code of Regulations Section 1265.~~
- ~~(27) California Code of Regulations Section 1267.~~
- ~~(28) California Code of Regulations Section 1275.~~

~~(c) Violations of the following code sections shall be designated Class C violations, the administrative fine for which may range from one hundred dollars (\$100.00) to five hundred dollars (\$500.00):~~

- ~~(1) Business and Professions Code Section 7628.~~
- ~~(2) Business and Professions Code Section 7633.~~
- ~~(3) Business and Professions Code Section 7665.~~

- ~~(4) Business and Professions Code Section 7668.~~
- ~~(5) Business and Professions Code Section 7670.~~
- ~~(6) Business and Professions Code Section 7680.~~
- ~~(7) Business and Professions Code Section 7700.~~
- ~~(8) Business and Professions Code Sections 7701 and 7701.5.~~
- ~~(9) Business and Professions Code Section 7704.~~
- ~~(10) California Code of Regulations Section 1203.~~
- ~~(11) California Code of Regulations Section 1209.~~
- ~~(12) California Code of Regulations Section 1211.~~
- ~~(13) California Code of Regulations Section 1215.~~
- ~~(14) California Code of Regulations Sections 1255 and 1256.~~
- ~~(15) California Code of Regulations Section 1258.~~
- ~~(16) California Code of Regulations Section 1269.~~
- ~~(17) California Code of Regulations Section 1271.~~

~~(d)~~ (b) In assessing an administrative fine, or in issuing an order of abatement, the following factors shall be given due consideration:

- (1) The gravity of the violation.
- (2) The good or bad faith of the cited person or entity.
- (3) The history of previous violations.
- (4) Evidence that the violation was or was not willful.
- (5) The extent to which the cited person or entity has cooperated with the bureau's investigation.
- (6) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.

(7) Such other matters as may be ~~proper~~ appropriate.

Note: Authority cited: Sections 125.9, ~~125.95~~, 7606 and 7740, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

(3) Amend Section 1242 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

§ 1242. Order of Abatement; Extension of Time.

If a cited person or entity who has been issued an order of abatement is unable to complete the correction within the time ~~specific~~ specified in the citation because of conditions beyond his, her or its control after exercise of reasonable diligence, the person or entity cited may request an extension of time in which to complete the correction. Such a request shall be submitted to the bureau in writing.

Note: Authority cited: Sections 125.9, ~~125.95~~, 7606 and 7740, Business and Professions Code. Reference: Sections 125.9 ~~and 125.95~~, Business and Professions Code.

(4) Amend Section 1246 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

§ 1246. Citations; Unlicensed Activity.

The bureau is authorized to issue citations containing orders of abatement and assessing administrative fines against unlicensed persons, partnerships, corporations, associations or other organizations who engage in any activity including advertising for which licensure by the bureau is required ~~as a funeral establishment, funeral director, embalmer, or an apprentice embalmer under the Funeral Directors and Embalmers Law~~. The citation may include a fine for such unlicensed activity which may range from one thousand one dollars (\$1,001.00) to ~~two thousand five hundred dollars (\$2,500.00)~~ five thousand dollars (\$5,000.00). The provisions of Sections 125.9 of the Business and Professions Code shall apply to the issuance of citations for unlicensed activity under this section. The sanctions authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 125.9, ~~125.95~~ and 7606, Business and Professions Code. Reference: Sections 125.9 ~~and 125.95~~, Business and Professions Code.

(5) Repeal Section 1280 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1280. Purpose and Scope.~~

~~These regulations are established to ensure that the practitioners of mortuary science maintain the highest degree of quality in their profession by requiring all funeral directors and embalmers to continue their education after licensure.~~

~~NOTE: Authority cited: Sections 7606, 7622 and 7651, Business and Professions Code. Reference: Sections 7622.3 and 7651, Business and Professions Code~~

(6) Repeal Section 1281 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1281. Definitions.~~

~~The following terms, as used in this article, shall have the following meanings, unless the context clearly indicates otherwise.~~

~~(a) "Committee" means the continuing education committee established by the Board pursuant to Section 1282.~~

~~(b) "Course" shall mean any combination of classes or seminars of continuing education offered by a recognized provider or otherwise approved by the committee.~~

~~(c) "Recognized provider" means a person or entity whose qualifications as a continuing education provider have been approved by the committee.~~

~~(d) A continuing education "hour" means a minimum of 50 minutes of contact time spent by a licensee in actual attendance at, or participation in, the completion of a course. If a course involves more than one hour of actual attendance or participation, credit may be issued in one-half (1/2) hour increments.~~

~~Note: Authority cited: Sections 7606, 7622 and 7651, Business and Professions Code. Reference: Sections 7622.3 and 7651, Business and Professions Code.~~

(7) Repeal Section 1282 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1282. Continuing Education Committee.~~

~~(a) The Board shall appoint an advisory committee to furnish subject matter expertise in implementing, reviewing, and updating its continuing education program. The committee shall consist of the following seven members: three actively licensed funeral directors; two actively licensed embalmers; and two adult education specialists. Members of the committee shall serve for two (2) years from the date of appointment,~~

~~unless appointed to serve the unexpired term of a former member, in which event they shall serve for the remainder of the unexpired term. Members of the committee shall serve at the pleasure of the Board.~~

~~(b) The committee shall:~~

~~(1) Develop procedures for its internal operations;~~

~~(2) Develop a system for reviewing and appraising recognized providers and courses;~~

~~(3) Annually review the Board's continuing education program and, if appropriate, make recommendations to the Board regarding modifications to the program, such as modifications to substantive criteria for courses, and to standards for the approval of recognized providers;~~

~~(4) Review and act upon recognized provider applications;~~

~~(5) Review and act upon courses proposed by non-recognized providers.~~

~~(c) Members of the committee shall serve on a voluntary basis without reimbursement for any expenses incurred while serving on the committee.~~

~~(d) All decisions of the committee shall be subject to review and approval by the Board.~~

~~Note: Authority cited: Sections 7606, 7622 and 7651, Business and Professions Code. Reference: Sections 7622.3 and 7651, Business and Professions Code.~~

(8) Repeal Section 1283 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1283. Minimum Continuing Education Requirements.~~

~~(a) As a condition of license renewal, every funeral director and embalmer shall certify to the Board that he or she has successfully completed fourteen (14) hours of continuing education on or before December 31, 1998, and shall certify to the Board that he or she has successfully completed fourteen (14) hours of continuing education on or before December 31 of every even-numbered year thereafter.~~

~~(b) A maximum of eight (8) credit hours may be applied to required continuing education for each licensee at courses approved for both funeral directors and embalmers.~~

~~(c) A licensee shall not receive credit for attending, or participating in, the same course more than once during the same two-year period.~~

~~(d) No credit may be granted for partial completion of any course.~~

~~(e) Upon approval by the committee a maximum of four (4) continuing education hours may be earned per two year cycle for:~~

~~(1) the preparation and delivery of an educational presentation pertaining to funeral directing or embalming before a recognized professional organization;~~

~~(2) the authoring of articles or other writings pertaining to funeral directing or embalming which are published in nationally recognized journals.~~

~~(f) Any person seeking to reinstate a license which has lapsed for less than one year must comply with the continuing education requirements for regular renewal of the license.~~

~~(g) Any licensee whose license has lapsed but who passed the funeral director's exam prior to July 1, 1999 shall be reinstated upon satisfying the provisions of this section.~~

~~Note: Authority cited: Sections 7606, 7622 and 7651, Business and Professions Code.
Reference: Sections 7622.3 and 7651, Business and Professions Code.~~

(9) Repeal Section 1284 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

§ 1284. Requirements for Recognized Providers.

~~(a) Anyone seeking to provide continuing education courses as a recognized provider for funeral directors and/or embalmers shall apply to the Board through the committee for registration as a recognized provider prior to offering any course.~~

~~(b) Providers requesting recognition shall meet the following criteria:~~

~~(1) A provider must be able to verify relevant experience, education, or background to qualify as a recognized provider;~~

~~(2) Providers shall provide the staffing, facilities and resources necessary to maintain high standards of scholarship and teaching;~~

~~(3) Every instructor shall have education or experience within the last five (5) years in the subject being taught;~~

~~(4) Providers shall submit a course monitoring and reporting plan which specifies the methodology for verifying actual attendance and for retaining relevant course records, including evaluations;~~

~~(c) Upon receipt of written approval and provider number from the Board, a recognized provider may represent itself as a California Recognized Provider of Continuing Education for Funeral Directors and/or Embalmers.~~

~~(d) Every recognized provider's registration expires two (2) years from the date of issuance. A recognized provider may renew its registration by filing an application for renewal on a form CE1 (11/97) provided by the Board, accompanied by a list of all courses offered during the last renewal period pursuant to its registration, the name and qualifications of each instructor, and a summary of the content of each course of study.~~

~~Note: Authority cited: Sections 7606 , 7622 and 7651, Business and Professions Code.
Reference: Sections 7622.3 and 7651, Business and Professions Code.~~

(10) Repeal Section 1285 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1285. Course Approval for Recognized Providers.~~

~~(a) Unless denied by the Board upon audit, a course offered by a recognized provider shall be considered as approved.~~

~~(b) A recognized provider's advertisements for approved course(s) shall clearly indicate the provider's name, the number of course hours, date of expiration, and the provider number assigned by the committee.~~

~~Note: Authority cited: Sections 7606 , 7622 and 7651, Business and Professions Code.
Reference: Sections 7622.3 and 7651, Business and Professions Code.~~

(11) Repeal Section 1286 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1286. Audit of Providers and Courses.~~

~~On a random basis established by the Board, or in response to complaints about a particular provider, the Board may audit selected providers and/or courses. Within fifteen (15) days of receipt of written notification, the recognized provider shall submit to the Board materials the Board deems necessary to complete the audit. The Board shall review the materials to determine whether the provider and/or course satisfies the standards set forth in this article for recognized providers and courses. The Board may conduct the audit itself, or through the committee.~~

~~Note: Authority cited: Sections 7606 , 7622 and 7651, Business and Professions Code.
Reference: Sections 7622.3 and 7651, Business and Professions Code~~

(12) Repeal Section 1287 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1287. Courses from Non-Recognized Providers.~~

~~(a) A non-recognized provider may petition the committee for approval of a specific course or courses which meet the standards for courses set forth in Section 1288.~~

~~Note: Authority cited: Sections 7606, 7622 and 7651, Business and Professions Code.
Reference: Sections 7622.3 and 7651, Business and Professions Code~~

(13) Repeal Section 1288 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1288. Standards for Continuing Education Courses.~~

~~(a) A recognized provider, or a non-recognized provider of an approved course, shall be responsible for the educational quality of its courses.~~

~~(b) Each course shall:~~

~~(1) be relevant to the practice of mortuary science, and shall address one of the following topics:~~

~~(A) scientific knowledge or technical skills required for the practice of funeral directing or embalming;~~

~~(B) business management concepts as they relate to the delivery of efficient professional services to consumers;~~

~~(C) ethics and/or legal developments relevant to funeral directing or embalming;~~

~~(D) application of new techniques and scientific and clinical advances relating to mortuary science.~~

~~(2) provide accurate and current information;~~

~~(3) be presented in an orderly and effective fashion conducive to the learning process;~~

~~(4) be complete and objective, and not reflect predominantly the commercial views of the provider or of anyone giving financial assistance to the provider;~~

~~(5) be based on stated educational goals and objectives.~~

~~(c) A provider shall furnish to each course participant a Certificate of Completion which shall include the name and address of the provider, the name and license number of the participant, a brief statement of the subject matter, the number of continuing education hours awarded, the date and location the course was held, and the signature of the course instructor. Recognized providers shall also indicate their provider numbers on Certificates of Completion.~~

~~(d) A provider shall maintain records of attendance at, or completion of, its courses for four (4) years.~~

~~(e) Each course participant shall be given the opportunity to provide a written evaluation of the course at the conclusion of the course.~~

~~(f) An opportunity to enroll in courses shall be available to all licensees.~~

~~(g) A minimum of ten (10) continuing education hours for a funeral director must be taken in (b)(1) (A, B, C) of this section during each two-year period.~~

~~(h) A minimum of ten (10) continuing education hours for an embalmer must be taken in (b)(1) (A, C, D) of this section during each two-year period.~~

Note: Authority cited: Sections 7606 , 7622 and 7651, Business and Professions Code.
Reference: Sections 7622.3 and 7651, Business and Professions Code.

(14) Repeal Section 1289 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1289. Denial, Suspension, or Revocation of Registration.~~

~~The Board shall deny approval of, suspend, or revoke the registration of any recognized provider or the approval of any course for any of the following acts or omissions:~~

~~(a) Obtaining or attempting to obtain registration or course approval through fraud, deceit, false statements, or misrepresentation of material facts, whether such statements or misrepresentations are made knowingly or negligently;~~

~~(b) Knowingly failing to provide complete and accurate information in the initial registration or in any notification of change of information;~~

~~(c) Failing to notify the Board of a change in the information required for registration of recognized providers;~~

~~(d) Falsifying any records regarding the continuing education courses conducted by the provider or the persons who attended or participated in the courses;~~

~~(e) Failing to maintain any required records regarding the continuing education courses conducted by the provider or the persons completing the courses;~~

~~(f) Failing to provide the Board with copies of any documentation or other information required to be maintained by a provider pursuant to this rule;~~

~~(g) Advertising that a course has been approved by the Board prior to the date the approval is granted;~~

~~(h) Advertising registration as a recognized provider prior to the date of registration;~~

~~(i) Participating in any activity designed or intended to circumvent or evade the requirements of Sections 7622.2 or 7651 of the Business and Professions Code, or the regulations adopted by the Board to implement those sections.~~

~~Note: Authority cited: Sections 7606, 7622 and 7651, Business and Professions Code. Reference: Sections 7622.3 and 7651, Business and Professions Code.~~

(15) Repeal Section 1290 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1290. Audit and Sanctions for Noncompliance.~~

~~(a) The Board shall conduct random audits to verify compliance with this Article. The auditing pool shall consist of a minimum of five percent (5%) of the affected licensees. Those licensees selected for an audit shall be required to document their compliance with the continuing education requirements of this Article on a form CE2 (11/97) provided by the Board.~~

~~Note: Authority cited: Sections 7606, 7622 and 7651, Business and Professions Code. Reference: Sections 7622.3 and 7651, Business and Professions Code.~~

(16) Repeal Section 1291 of Division 12 of Title 16 of the California Code of Regulations to read as follows:

~~§ 1291. Processing Periods.~~

~~(a) The Board shall inform an applicant, in writing, within seven (7) days whether the application for registration as a recognized provider or for approval of a course from a non-recognized provider is complete and acceptable for filing or is deficient, and what specific information is required to complete the application.~~

~~(b) The Board shall make a decision within sixty (60) days after the date the application is deemed to be completed whether the applicant meets the requirements~~

~~for registration as a recognized provider, or whether a course from a non-recognized provider will be acceptable for continuing education credit.~~

~~(c) The minimum, median and maximum processing times for an application for registration as a recognized provider or approval for a course from a non-recognized provider from the date of acceptance and filing of the initial application until the Board makes a final decision on the application are:~~

~~(1) Minimum -(1) day.~~

~~(2) Median -(10) days.~~

~~(3) Maximum -(60) days.~~

~~Note: Authority cited: Sections 7606 , 7622 and 7651, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 7622.3 and 7651, Business and Professions Code.~~