



CEMETERY & FUNERAL  
B U R E A U

**LAWS AND  
REGULATIONS  
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# BUSINESS & PROFESSIONS CODE

## GENERAL PROVISIONS

### Section

- 7.5. "Conviction"; When action by board following establishment of conviction may be taken; Prohibition against denial of licensure; Application of section
- 10. Authority of deputies
- 12.5. Violation of regulation adopted pursuant to code provision; Issuance of citation
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- 30. Provision of federal employer identification number or social security number by licensee
- 31. Compliance with judgment or order for support upon issuance or renewal of license
- 35. Provision in rules and regulations for evaluation experience obtained in armed services

**HISTORY:** Enacted Stats 1937 ch 399.

### **§ 7.5. "Conviction"; When action by board following establishment of conviction may be taken; Prohibition against denial of licensure; Application of section**

(a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b)(1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (A) The State Athletic Commission.
- (B) The Bureau for Private Postsecondary Education.
- (C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

(d) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2018 ch 995 § 2 (AB 2138), effective January 1, 2019, operative July 1, 2020.

### **§ 10. Authority of deputies**

Whenever, by the provisions of this code, a power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer, unless it is expressly otherwise provided.

**HISTORY:** Enacted Stats 1937.

### **§ 12.5. Violation of regulation adopted pursuant to code provision; Issuance of citation**

Whenever in any provision of this code authority is granted to issue a citation for a violation of any provision of this code, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to any provision of this code.

**HISTORY:** Added Stats 1986 ch 1379 § 1.

### **§ 14. Tenses and genders**

The present tense includes the past and future tenses; and the future, the present. Each gender includes the other two genders.

**HISTORY:** Enacted Stats 1937. Amended Stats 1939 ch 30 § 1.

**§ 14.1. Legislative intent**

The Legislature hereby declares its intent that the terms “man” or “men” where appropriate shall be deemed “person” or “persons” and any references to the terms “man” or “men” in sections of this code be changed to “person” or “persons” when such code sections are being amended for any purpose. This act is declaratory and not amendatory of existing law.

**HISTORY:** Added Stats 1976 ch 1171 § 1.

**§ 14.2. “Spouse” to include registered domestic partner**

“Spouse” includes “registered domestic partner,” as required by Section 297.5 of the Family Code.

**HISTORY:** Added Stats 2016 ch 50 § 1 (SB 1005), effective January 1, 2017.

**§ 15. “Section”; “Subdivision”**

“Section” means a section of this code unless some other statute is specifically mentioned. “Subdivision” means a subdivision of the section in which that term occurs, unless some other section is expressly mentioned.

**HISTORY:** Enacted Stats 1937.

**§ 19. Mandatory and permissive terms**

“Shall” is mandatory and “may” is permissive.

**HISTORY:** Enacted Stats 1937.

**§ 22. “Board”**

“Board,” as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.”

**HISTORY:** Enacted Stats 1937. Amended Stats 1947 ch 1350 § 1; Stats 1980 ch 676 § 1; Stats 1991 ch 654 § 1 (AB 1893); Stats 1999 ch 656 § 1 (SB 1306); Stats 2004 ch 33 § 1 (AB 1467), effective April 13, 2004; Stats 2010 ch 670 § 1 (AB 2130), effective January 1, 2011.

**§ 23. “Department”**

“Department,” unless otherwise defined, refers to the Department of Consumer Affairs.

Wherever the laws of this state refer to the Department of Professional and Vocational Standards, the reference shall be construed to be to the Department of Consumer Affairs.

**HISTORY:** Enacted Stats 1937. Amended Stats 1971 ch 716 § 1.

**§ 23.5. “Director”**

“Director,” unless otherwise defined, refers to the Director of Consumer Affairs.

Wherever the laws of this state refer to the Director of Professional and Vocational Standards, the reference shall be construed to be to the Director of Consumer Affairs.

**HISTORY:** Added Stats 1939 ch 30 § 2. Amended Stats 1971 ch 716 § 2.

**§ 23.6. “Appointing power”**

“Appointing power,” unless otherwise defined, refers to the Director of Consumer Affairs.

**HISTORY:** Added Stats 1945 ch 1276 § 1. Amended Stats 1971 ch 716 § 3.

**§ 23.7. “License”**

Unless otherwise expressly provided, “license” means license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

**HISTORY:** Added Stats 1994 ch 26 § 1 (AB 1807), effective March 30, 1994.

**§ 23.8. “Licensee”**

“Licensee” means any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Sections 1000 and 3600.

Any reference to licentiate in this code shall be deemed to refer to licensee.

**HISTORY:** Added Stats 1961 ch 2232 § 1. Amended Stats 2019 ch 351 § 1 (AB 496), effective January 1, 2020.

**§ 27. Information to be provided on internet; Entities in Department of Consumer Affairs required to comply**

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as the licensee's address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet.

(b) In providing information on the internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Household Goods and Services shall disclose information on its licensees, registrants, and permitholders.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The Acupuncture Board shall disclose information on its licensees.

(13) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.

(14) The Dental Board of California shall disclose information on its licensees.

(15) The California State Board of Optometry shall disclose information on its licensees and registrants.

(16) The Board of Psychology shall disclose information on its licensees, including psychologists and registered psychological associates.

(17) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permitholders.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

**HISTORY:** Added Stats 1997 ch 661 § 1 (SB 492). Amended Stats 1998 ch 59 § 1 (AB 969); Stats 1999 ch 655 § 1 (SB 1308); Stats 2000 ch 927 § 1 (SB 1889); Stats 2001 ch 159 § 1 (SB 662); Stats 2003 ch 849 § 1 (AB 1418); Stats 2009 ch 308 § 1 (SB 819), effective January 1, 2010, ch 310 § 1.5 (AB 48), effective January 1, 2010; Stats 2011 ch 381 § 2 (SB 146), effective January 1, 2012, ch 712 § 1 (SB 706), effective January 1, 2012; Stats 2014 ch 316 § 1 (SB 1466), effective January 1, 2015; Stats 2015 ch 689 § 1 (AB 266), effective January 1, 2016; Stats 2016 ch 32 § 1 (SB 837), effective June 27, 2016; Stats 2016 ch 489 § 1 (SB 1478), effective January 1, 2017; Stats 2017 ch 429 § 1 (SB 547), effective January 1, 2018; Stats 2018 ch 578 § 1 (SB 1483), effective January 1, 2019; Stats 2018 ch 599 § 1 (AB 3261), effective January 1, 2019; Stats 2018 ch 703 § 1.3 (SB 1491), effective January 1, 2019 (ch 703 prevails); Stats 2019 ch 351 § 4 (AB 496), effective January 1, 2020; Stats 2020 ch 312 § 1 (SB 1474), effective January 1, 2021; Stats 2021 ch 70 § 1 (AB 141), effective July 12, 2021; Stats 2021 ch 188 § 1 (SB 826), effective January 1, 2022; Stats 2021 ch 630 § 1 (AB 1534), effective January 1, 2022; Stats 2021 ch 647 § 1.3 (SB 801), effective January 1, 2022 (ch 647 prevails); Stats 2022 ch 28 § 1 (SB 1380), effective January 1, 2023.

## **§ 29.5. Additional qualifications for licensure**

In addition to other qualifications for licensure prescribed by the various acts of boards under the department, applicants for licensure and licensees renewing their licenses shall also comply with Section 17520 of the Family Code.

**HISTORY:** Added Stats 1991 ch 542 § 1 (SB 1161). Amended Stats 2003 ch 607 § 1 (SB 1077).

## **§ 30. Provision of federal employer identification number or social security number by licensee**

(a)(1) Notwithstanding any other law, any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall, at the time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

(2)(A) In accordance with Section 135.5, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for a license or certificate, as defined in subparagraph (2) of subdivision (e), and for purposes of this subdivision.

(B) In implementing the requirements of subparagraph (A), a licensing board shall not require an individual to disclose either citizenship status or immigration status for purposes of licensure.

(C) A licensing board shall not deny licensure to an otherwise qualified and eligible individual based solely on the individual's citizenship status or immigration status.

(D) The Legislature finds and declares that the requirements of this subdivision are consistent with subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

(g) Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

(h) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of their employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section, to the Franchise Tax Board, the Employment Development Department, the Office of the Chancellor of the California Community Colleges, a collections agency contracted to collect funds owed to the State Bar by licensees pursuant to Sections 6086.10 and 6140.5, or as provided in subdivisions (j) and (k).

(j) It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges, and for purposes of collecting funds owed to the State Bar by licensees pursuant to Section 6086.10 and Section 6140.5 and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(l) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar of California, the Department of Real Estate, and the Department of Motor Vehicles.

(m) The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(3) Date of birth.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(n) The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

(o) The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p) The department may, by agreement, condition or limit the availability of licensure information pursuant



to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q) All of the following apply to the licensure information made available pursuant to subdivision (m):

(1) It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

(2) It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

(3) Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

(4) It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

(5) It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

(r) The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

**HISTORY:** Added Stats 2017 ch 828 § 2 (SB 173), effective January 1, 2018, operative July 1, 2018. Amended Stats 2018 ch 659 § 1 (AB 3249), effective January 1, 2019; Stats 2018 ch 838 § 2.5 (SB 695), effective January 1, 2019 (ch 838 prevails); Stats 2019 ch 351 § 6 (AB 496), effective January 1, 2020; Stats 2021 ch 615 § 2, 615 (AB 474), effective January 1, 2022, operative January 1, 2023.

### **§ 31. Compliance with judgment or order for support upon issuance or renewal of license**

(a) As used in this section, "board" means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 17520 of the Family Code.

(c) "Compliance with a judgment or order for support" has the meaning given in paragraph (4) of subdivision (a) of Section 17520 of the Family Code.

(d) Each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code shall be subject to Section 494.5.

(e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the California Department of Tax and Fee Administration and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay the licensee's state tax obligation and that the licensee's license may be suspended if the state tax obligation is not paid.

(f) For purposes of this section, "tax obligation" means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7280), Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

**HISTORY:** Added Stats 1991 ch 110 § 4 (SB 101). Amended Stats 1991 ch 542 § 3 (SB 1161); Stats 2010 ch 328 § 1 (SB 1330), effective January 1, 2011; Stats 2011 ch 455 § 1 (AB 1424), effective January 1, 2012; Stats 2013 ch 352 § 2 (AB 1317), effective September 26, 2013, operative July 1, 2013; Stats 2019 ch 351 § 7 (AB 496), effective January 1, 2020.

### **§ 35. Provision in rules and regulations for evaluation experience obtained in armed services**

It is the policy of this state that, consistent with the provision of high-quality services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in this code shall provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession regulated. These rules and regulations shall also specify how this education, training, and experience may be used to meet the licensure requirements for the particular business, occupation, or profession regulated. Each board shall consult with the Department of Veterans Affairs and the Military Department before adopting these rules and regulations. Each board shall perform the duties required by this section within existing budgetary resources of the agency within which the board operates.

**HISTORY:** Added Stats 1994 ch 987 § 1 (SB 1646), effective September 28, 1994. Amended Stats 1995 ch 91 § 1 (SB 975); Stats 2010 ch 214 § 1 (AB 2783), effective January 1, 2011.

**DIVISION 1 DEPARTMENT OF CONSUMER AFFAIRS**

## Chapter

- 1. The Department
- 1.5. Unlicensed Activity Enforcement
- 2. The Director of Consumer Affairs
- 3. Funds of the Department
- 4. Consumer Affairs
- 7. Licensee

**HISTORY:** Enacted Stats 1937 ch 399. The heading of Division 1, amended to read as above by Stats 1973 ch 77 § 1.

**CHAPTER 1 THE DEPARTMENT**

## Section

- 101.6. Purpose
- 114. Reinstatement of expired license of licensee serving in military
- 114.3. Waiver of fees and requirements for active duty members of armed forces and national guard
- 114.5. Military service; Posting of information on Web site about application of military experience and training towards licensure
- 115. Applicability of Section 114
- 115.4. Licensure process expedited for honorably discharged veterans of Armed Forces
- 115.5. Board required to expedite licensure process for certain applicants; Adoption of regulations [Repealed]
- 115.5. Board required to expedite licensure process for certain applicants; Adoption of regulations
- 118. Effect of withdrawal of application; Effect of suspension, forfeiture, etc., of license
- 119. Misdemeanors pertaining to use of licenses
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- 125.6. Unlawful discrimination by licensees
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- 125.8. Temporary order restraining licensee engaged or about to engage in violation of law
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- 128. Sale of equipment, supplies, or services for use in violation of licensing requirements
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- 142. Authority to synchronize renewal dates of licenses; Abandonment date for application; Delinquency fee
- 143. Proof of license as condition of bringing action for collection of compensation
- 143.5. Provision in agreements to settle certain causes of action prohibited; Adoption of regulations; Exemptions
- 144. Requirement of fingerprints for criminal record checks; Applicability
- 144.5. Board authority

**HISTORY:** Enacted Stats 1937 ch 399.

**§ 101.6. Purpose**

The boards, bureaus, and commissions in the department are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California.

To this end, they establish minimum qualifications and levels of competency and license persons desiring to engage in the occupations they regulate upon determining that such persons possess the requisite skills and qualifications necessary to provide safe and effective services to the public, or register or otherwise certify persons in order to identify practitioners and ensure performance according to set and accepted professional standards. They provide a means for redress of grievances by investigating allegations of unprofessional conduct, incompetence, fraudulent action, or unlawful activity brought to their attention by members of the public and institute disciplinary action against persons licensed or registered under the provisions of this code when such action is warranted. In addition, they conduct periodic checks of licensees, registrants, or otherwise certified persons in order to ensure compliance with the relevant sections of this code.

**HISTORY:** Added Stats 1980 ch 375 § 1.

**§ 114. Reinstatement of expired license of licensee serving in military**

- (a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission,

or bureau within the department whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces, may, upon application, reinstate their license or registration without examination or penalty, provided that all of the following requirements are satisfied:

- (1) The licensee or registrant's license or registration was valid at the time they entered the California National Guard or the United States Armed Forces.
- (2) The application for reinstatement is made while serving in the California National Guard or the United States Armed Forces, or not later than one year from the date of discharge from active service or return to inactive military status.
- (3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.
- (b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.
- (c) If application for reinstatement is filed and the licensing agency determines that the applicant has not actively engaged in the practice of the applicant's profession while on active duty, then the licensing agency may require the applicant to pass an examination.
- (d) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this state the profession or vocation for which the licensee or registrant is licensed or registered shall be required to maintain their license in good standing even though the licensee or registrant is in military service.

For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which the licensee is prevented from practicing the licensee's profession or vocation shall be excluded from said period of one year.

**HISTORY:** Added Stats 1951 ch 185 § 2. Amended Stats 1953 ch 423 § 1; Stats 1961 ch 1253 § 1; Stats 2010 ch 389 § 1 (AB 2500), effective January 1, 2011; Stats 2011 ch 296 § 1 (AB 1023), effective January 1, 2012; Stats 2019 ch 351 § 17 (AB 496), effective January 1, 2020.

#### **§ 114.3. Waiver of fees and requirements for active duty members of armed forces and national guard**

(a) Notwithstanding any other law, every board, as defined in Section 22, within the department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for a licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:

- (1) The licensee or registrant possessed a current and valid license with the board at the time the licensee or registrant was called to active duty.
- (2) The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.
- (3) Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.
- (b) For purposes of this section, the phrase "called to active duty" shall have the same meaning as "active duty" as defined in Section 101 of Title 10 of the United States Code and shall additionally include individuals who are on active duty in the California National Guard, whether due to proclamation of a state of insurrection pursuant to Section 143 of the Military and Veterans Code or due to a proclamation of a state extreme emergency or when the California National Guard is otherwise on active duty pursuant to Section 146 of the Military and Veterans Code.
- (c)(1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect.
- (2) If the licensee or registrant will provide services for which the licensee or registrant is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.
- (d) In order to engage in any activities for which the licensee or registrant is licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.
- (e) After a licensee or registrant receives notice of the licensee or registrant's discharge date, the licensee or registrant shall notify the board of their discharge from active duty within 60 days of receiving their notice of discharge.
- (f) A board may adopt regulations to carry out the provisions of this section.



(g) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.

**HISTORY:** Added Stats 2012 ch 742 § 1 (AB 1588), effective January 1, 2013. Amended Stats 2019 ch 351 § 18 (AB 496), effective January 1, 2020; Stats 2022 ch 386 § 1 (SB 1237), effective January 1, 2023.

#### **§ 114.5. Military service; Posting of information on Web site about application of military experience and training towards licensure**

(a) Each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

(b) If a board's governing law authorizes veterans to apply military experience and training towards licensure requirements, that board shall post information on the board's Internet Web site about the ability of veteran applicants to apply military experience and training towards licensure requirements.

**HISTORY:** Added Stats 2013 ch 693 § 1 (AB 1057), effective January 1, 2014. Amended Stats 2016 ch 174 § 1 (SB 1348), effective January 1, 2017.

#### **§ 115. Applicability of Section 114**

The provisions of Section 114 of this code are also applicable to a licensee or registrant whose license or registration was obtained while in the armed services.

**HISTORY:** Added Stats 1951 ch 1577 § 1.

#### **§ 115.4. Licensure process expedited for honorably discharged veterans of Armed Forces**

(a) Notwithstanding any other law, on and after July 1, 2016, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

(b) A board may adopt regulations necessary to administer this section.

**HISTORY:** Added Stats 2014 ch 657 § 1 (SB 1226), effective January 1, 2015.

#### **§ 115.5. Board required to expedite licensure process for certain applicants; Adoption of regulations [Repealed]**

**HISTORY:** Added Stats 2012 ch 399 § 1 (AB 1904), effective January 1, 2013. Amended Stats 2019 ch 351 § 19 (AB 496), effective January 1, 2020; Stats 2021 ch 367 § 1 (SB 607), effective January 1, 2022, repealed July 1, 2022.

#### **§ 115.5. Board required to expedite licensure process for certain applicants; Adoption of regulations**

(a) A board within the department shall expedite the licensure process and waive the licensure application fee and the initial or original license fee charged by the board for an applicant who meets both of the following requirements:

(1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the board.

(b) A board may adopt regulations necessary to administer this section.

(c) This section shall become operative on July 1, 2022.

**HISTORY:** Added Stats 2021 ch 367 § 2 (SB 607), effective January 1, 2022, operative July 1, 2022.

#### **§ 118. Effect of withdrawal of application; Effect of suspension, forfeiture, etc., of license**

(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, “board” includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and “license” includes “certificate,” “registration,” and “permit.”

**HISTORY:** Added Stats 1961 ch 1079 § 1.

### **§ 119. Misdemeanors pertaining to use of licenses**

Any person who does any of the following is guilty of a misdemeanor:

(a) Displays or causes or permits to be displayed or has in the person’s possession either of the following:

(1) A canceled, revoked, suspended, or fraudulently altered license.

(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.

(b) Lends the person’s license to any other person or knowingly permits the use thereof by another.

(c) Displays or represents any license not issued to the person as being the person’s license.

(d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.

(e) Knowingly permits any unlawful use of a license issued to the person.

(f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in the person’s possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, “fraudulent” means containing any misrepresentation of fact.

As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration” or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

**HISTORY:** Added Stats 1965 ch 1083 § 1. Amended Stats 1990 ch 350 § 1 (SB 2084) (ch 1207 prevails), ch 1207 § 1 (AB 3242); Stats 1994 ch 1206 § 1 (SB 1775); Stats 2000 ch 568 § 1 (AB 2888); Stats 2019 ch 351 § 22 (AB 496), effective January 1, 2020.

### **§ 121. Practice during period between renewal and receipt of evidence of renewal**

No licensee who has complied with the provisions of this code relating to the renewal of the licensee’s license prior to expiration of such license shall be deemed to be engaged illegally in the practice of the licensee’s business or profession during any period between such renewal and receipt of evidence of such renewal which may occur due to delay not the fault of the applicant.

As used in this section, “license” includes “certificate,” “permit,” “authorization,” and “registration,” or any other indicia giving authorization, by any agency, board, bureau, commission, committee, or entity within the Department of Consumer Affairs, to engage in a business or profession regulated by this code or by the board referred to in the Chiropractic Act or the Osteopathic Act.

**HISTORY:** Added Stats 1979 ch 77 § 1. Amended Stats 2019 ch 351 § 24 (AB 496), effective January 1, 2020.

### **§ 122. Fee for issuance of duplicate certificate**

Except as otherwise provided by law, the department and each of the boards, bureaus, committees, and commissions within the department may charge a fee for the processing and issuance of a duplicate copy of any certificate of licensure or other form evidencing licensure or renewal of licensure. The fee shall be in an amount sufficient to cover all costs incident to the issuance of the duplicate certificate or other form but shall not exceed twenty-five dollars (\$25).

**HISTORY:** Added Stats 1986 ch 951 § 1.

### **§ 123. Conduct constituting subversion of licensing examination; Penalties and damages**

It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to:

(a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination;

or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(b) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law.

In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars (\$10,000) and the costs of litigation.

(c) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

**HISTORY:** Added Stats 1989 ch 1022 § 1. Amended Stats 1991 ch 647 § 1 (SB 879).

### **§ 123.5. Enjoining violations**

Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of Section 123, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of a board, the Attorney General or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other provision of law.

**HISTORY:** Added Stats 1983 ch 95 § 2, as B & P C § 497. Amended and renumbered by Stats 1989 ch 1022 § 4.

### **§ 124. Manner of notice**

Notwithstanding subdivision (c) of Section 11505 of the Government Code, whenever written notice, including a notice, order, or document served pursuant to Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), or Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code, is required to be given by any board in the department, the notice may be given by regular mail addressed to the last known address of the licensee or by personal service, at the option of the board.

**HISTORY:** Added Stats 1961 ch 1253 § 2. Amended Stats 1994 ch 26 § 4 (AB 1807), effective March 30, 1994; Stats 1995 ch 938 § 1 (SB 523), operative July 1, 1997; Stats 2019 ch 351 § 25 (AB 496), effective January 1, 2020.

### **§ 125. Misdemeanor offenses by licensees**

Any person, licensed under Division 1 (commencing with Section 100), Division 2 (commencing with Section 500), or Division 3 (commencing with Section 5000) is guilty of a misdemeanor and subject to the disciplinary provisions of this code applicable to them, who conspires with a person not so licensed to violate any provision of this code, or who, with intent to aid or assist that person in violating those provisions does either of the following:

- (a) Allows their license to be used by that person.
- (b) Acts as their agent or partner.

**HISTORY:** Added Stats 1949 ch 308 § 1. Amended Stats 1994 ch 1206 § 2 (SB 1775); Stats 2019 ch 351 § 26 (AB 496), effective January 1, 2020.

### **§ 125.3. Direction to licensee violating licensing act to pay costs of investigation and enforcement**

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

**HISTORY:** Added Stats 1992 ch 1289 § 1 (AB 2743), effective January 1, 1993. Amended Stats 2001 ch 728 § 1 (SB 724); Stats 2005 ch 674 § 2 (SB 231), effective January 1, 2006; Stats 2006 ch 223 § 2 (SB 1438), effective January 1, 2007; Stats 2019 ch 351 § 27 (AB 496), effective January 1, 2020; Stats 2021 ch 649 § 1 (SB 806), effective January 1, 2022.

### § 125.5. Enjoining violations; Restitution orders

(a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. As used in this section, "board" includes commission, bureau, division, agency and a medical quality review committee.

(b) The superior court for the county in which any person has engaged in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, order such person to make restitution to persons injured as a result of such violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a) of this section, or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the petitioning board for expenses incurred by the board in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other section of this code.

**HISTORY:** Added Stats 1972 ch 1238 § 1. Amended Stats 1973 ch 632 § 1; Stats 1975 2d Ex Sess ch 1 § 2; Stats 1982 ch 517 § 1.

### § 125.6. Unlawful discrimination by licensees

(a)(1) With regard to an applicant, every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to that person if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, the person refuses to perform the licensed activity or aids or incites the refusal to perform that licensed activity by another licensee, or if, because of any characteristic listed or defined in subdivision (b) or (e) of Section



51 of the Civil Code, the person makes any discrimination, or restriction in the performance of the licensed activity.

(2) Nothing in this section shall be interpreted to prevent a physician or health care professional licensed pursuant to Division 2 (commencing with Section 500) from considering any of the characteristics of a patient listed in subdivision (b) or (e) of Section 51 of the Civil Code if that consideration is medically necessary and for the sole purpose of determining the appropriate diagnosis or treatment of the patient.

(3) Nothing in this section shall be interpreted to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy.

(4) The presence of architectural barriers to an individual with physical disabilities that conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

(b)(1) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For this purpose, the term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

(2) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to perform a licensed activity for which the person is not qualified to perform.

(c)(1) "Applicant," as used in this section, means a person applying for licensed services provided by a person licensed under this code.

(2) "License," as used in this section, includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code.

**HISTORY:** Added Stats 1974 ch 1350 § 1. Amended Stats 1977 ch 293 § 1; Stats 1980 ch 191 § 1; Stats 1992 ch 913 § 2 (AB 1077); Stats 2007 ch 568 § 2 (AB 14), effective January 1, 2008; Stats 2019 ch 351 § 28 (AB 496), effective January 1, 2020.

### § 125.7. Restraining orders

In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under Division 2 (commencing with Section 500), or any initiative act referred to in that division, has engaged or is about to engage in any act that constitutes a violation of a chapter of this code administered or enforced by a board referred to in Division 2 (commencing with Section 500), may, upon a petition filed by the board and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with this section.

(a) If the affidavits in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of a chapter of this code and if the court is satisfied that permitting the licensee to continue to engage in the business or profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he or she is licensed.

(b) The order may not be issued without notice to the licensee unless it appears from facts shown by the affidavits that serious injury would result to the public before the matter can be heard on notice.

(c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed with the board pursuant to Section 11503 of the Government Code or, in the case of a licensee of the State Department of Health Services, with that department pursuant to Section 100171 of the Health and Safety Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, if the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date the decision is received from the administrative law judge, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at the time the board's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(e) The remedy provided for in this section shall be in addition to, and not a limitation upon, the authority provided by any other provision of this code.

**HISTORY:** Added Stats 1977 ch 292 § 1. Amended Stats 1982 ch 517 § 2; Stats 1994 ch 1206 § 3 (SB 1775); Stats 1997 ch 220 § 1 (SB 68), effective August 4, 1997; Stats 1998 ch 878 § 1.5 (SB 2239).

### **§ 125.8. Temporary order restraining licensee engaged or about to engage in violation of law**

In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under Division 3 (commencing with Section 5000) or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8 has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board referred to in Division 3 (commencing with Section 5000) or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8 may, upon a petition filed by the board and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with the provisions of this section.

(a) If the affidavits in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of a chapter of this code and if the court is satisfied that permitting the licensee to continue to engage in the business or profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he is licensed.

(b) Such order may not be issued without notice to the licensee unless it appears from facts shown by the affidavits that serious injury would result to the public before the matter can be heard on notice.

(c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed with the board pursuant to Section 11503 of the Government Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code; however, if the licensee requests a hearing on the accusation, the board must provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date of the conclusion of the hearing, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at such time the board's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

**HISTORY:** Added Stats 1977 ch 443 § 1. Amended Stats 1982 ch 517 § 3.

### **§ 125.9. System for issuance of citations to licensees; Contents; Fines**

(a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), any board, bureau, or commission within the department, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assess-

ment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine or comply with an order of abatement, or both, within 30 days of the date of assessment or order, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine and compliance with the order of abatement, if applicable, shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

**HISTORY:** Added Stats 1986 ch 1379 § 2. Amended Stats 1987 ch 1088 § 1; Stats 1991 ch 521 § 1 (SB 650); Stats 1995 ch 381 § 4 (AB 910), effective August 4, 1995, ch 708 § 1 (SB 609); Stats 2000 ch 197 § 1 (SB 1636); Stats 2001 ch 309 § 1 (AB 761), ch 728 § 1.2 (SB 724); Stats 2003 ch 788 § 1 (SB 362); Stats 2012 ch 291 § 1 (SB 1077), effective January 1, 2013; Stats 2019 ch 351 § 29 (AB 496), effective January 1, 2020; Stats 2020 ch 312 § 3 (SB 1474), effective January 1, 2021.

## **§ 128. Sale of equipment, supplies, or services for use in violation of licensing requirements**

Notwithstanding any other provision of law, it is a misdemeanor to sell equipment, supplies, or services to any person with knowledge that the equipment, supplies, or services are to be used in the performance of a service or contract in violation of the licensing requirements of this code.

The provisions of this section shall not be applicable to cash sales of less than one hundred dollars (\$100).

For the purposes of this section, "person" includes, but is not limited to, a company, partnership, limited liability company, firm, or corporation.

For the purposes of this section, "license" includes certificate or registration.

A violation of this section shall be punishable by a fine of not less than one thousand dollars (\$1,000) and by imprisonment in the county jail not exceeding six months.

**HISTORY:** Added Stats 1971 ch 1052 § 1. Amended Stats 1994 ch 1010 § 1 (SB 2053).

### **§ 128.5. Reduction of license fees in event of surplus funds**

(a) Notwithstanding any other provision of law, if at the end of any fiscal year, an agency within the Department of Consumer Affairs, except the agencies referred to in subdivision (b), has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

(b) Notwithstanding any other provision of law, if at the end of any fiscal year, the California Architects Board, the Board of Behavioral Sciences, the Veterinary Medical Board, the Court Reporters Board of California, the Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians, or the Bureau of Security and Investigative Services has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

**HISTORY:** Added Stats 1972 ch 938 § 2, effective August 16, 1972, as B & P C § 128. Amended Stats 1973 ch 863 § 3. Amended and renumbered by Stats 1978 ch 1161 § 4. Amended Stats 1987 ch 850 § 3; Stats 1989 ch 886 § 2; Stats 1993 ch 1263 § 2 (AB 936); Stats 1994 ch 26 § 5 (AB 1807), effective March 30, 1994; Stats 1995 ch 60 § 2 (SB 42), effective July 6, 1995; Stats 1997 ch 759 § 2 (SB 827); Stats 2000 ch 1054 § 1 (SB 1863); Stats 2009 ch 308 § 3 (SB 819), effective January 1, 2010.

## **§ 129. Handling of complaints; Reports to Legislature**

(a) As used in this section, "board" means every board, bureau, commission, committee, and similarly constituted agency in the department that issues licenses.

(b) Each board shall, upon receipt of any complaint respecting an individual licensed by the board, notify the complainant of the initial administrative action taken on the complainant's complaint within 10 days of receipt. Each board shall notify the complainant of the final action taken on the complainant's complaint. There shall be a notification made in every case in which the complainant is known. If the complaint is not within the jurisdiction of the board or if the board is unable to dispose satisfactorily of the complaint, the board shall transmit the complaint together with any evidence or information it has concerning the complaint to the agency, public or private, whose authority in the opinion of the board will provide the most effective means to secure the relief sought. The board shall notify the complainant of this action and of any other means that may be available to the complainant to secure relief.

(c) The board shall, when the board deems it appropriate, notify the person against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the licensee in order to mediate the complaint. Nothing in this subdivision shall be construed as authorizing or requiring any board to set or to modify any fee charged by a licensee.

(d) It shall be the continuing duty of the board to ascertain patterns of complaints and to report on all actions taken with respect to those patterns of complaints to the director and to the Legislature at least once per year. The board shall evaluate those complaints dismissed for lack of jurisdiction or no violation and recommend to the director and to the Legislature at least once per year the statutory changes it deems necessary to implement the board's functions and responsibilities under this section.

(e) It shall be the continuing duty of the board to take whatever action it deems necessary, with the approval of the director, to inform the public of its functions under this section.

(f) Notwithstanding any other law, upon receipt of a child custody evaluation report submitted to a court pursuant to Chapter 6 (commencing with Section 3110) of Part 2 of Division 8 of the Family Code, the board shall notify the noncomplaining party in the underlying custody dispute, who is a subject of that report, of the pending investigation.

**HISTORY:** Added Stats 1972 ch 1041 § 1. Amended Stats 2014 ch 283 § 1 (AB 1843), effective January 1, 2015; Stats 2019 ch 351 § 31 (AB 496), effective January 1, 2020.

### **§ 135.5. Licensure and citizenship or immigration status**

(a) The Legislature finds and declares that it is in the best interests of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by all licensing acts of entities within the department, and therefore enacts this section pursuant to subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) Notwithstanding subdivision (a) of Section 30, and except as required by subdivision (e) of Section 7583.23, no entity within the department shall deny licensure to an applicant based on his or her citizenship status or immigration status.

(c) Every board within the department shall implement all required regulatory or procedural changes necessary to implement this section no later than January 1, 2016. A board may implement the provisions of this section at any time prior to January 1, 2016.

**HISTORY:** Added Stats 2014 ch 752 § 2 (SB 1159), effective January 1, 2015.

### **§ 136. Notification of change of address; Punishment for failure to comply**

(a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in the person's mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.

(b) Except as otherwise provided by law, failure of a licensee to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.

**HISTORY:** Added Stats 1994 ch 26 § 7 (AB 1807), effective March 30, 1994. Amended Stats 2019 ch 351 § 34 (AB 496), effective January 1, 2020.

### **§ 137. Regulations requiring inclusion of license numbers in advertising, etc.**

Any agency within the department may promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public.

However, nothing in this section shall be construed to authorize regulation of any person not a licensee who engages in advertising, solicitation, or who makes any other presentment to the public on behalf of a licensee. Such a person shall incur no liability pursuant to this section for communicating in any advertising,



soliciting, or other presentment to the public a licensee's license number exactly as provided by the licensee or for failure to communicate such number if none is provided by the licensee.

**HISTORY:** Added Stats 1974 ch 743 § 3. Amended Stats 2019 ch 351 § 35 (AB 496), effective January 1, 2020.

### **§ 138. Notice that practitioner is licensed; Evaluation of licensing examination**

Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its licensees, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

**HISTORY:** Added Stats 1998 ch 879 § 1 (SB 2238). Amended Stats 1999 ch 67 § 1 (AB 1105), effective July 6, 1999; Stats 2019 ch 351 § 36 (AB 496), effective January 1, 2020.

### **§ 139. Policy for examination development and validation, and occupational analysis**

(a) The Legislature finds and declares that occupational analyses and examination validation studies are fundamental components of licensure programs. It is the intent of the Legislature that the policy developed by the department pursuant to subdivision (b) be used by the fiscal, policy, and sunset review committees of the Legislature in their annual reviews of these boards, programs, and bureaus.

(b) Notwithstanding any other provision of law, the department shall develop, in consultation with the boards, programs, bureaus, and divisions under its jurisdiction, and the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners, a policy regarding examination development and validation, and occupational analysis. The department shall finalize and distribute this policy by September 30, 1999, to each of the boards, programs, bureaus, and divisions under its jurisdiction and to the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. This policy shall be submitted in draft form at least 30 days prior to that date to the appropriate fiscal, policy, and sunset review committees of the Legislature for review. This policy shall address, but shall not be limited to, the following issues:

(1) An appropriate schedule for examination validation and occupational analyses, and circumstances under which more frequent reviews are appropriate.

(2) Minimum requirements for psychometrically sound examination validation, examination development, and occupational analyses, including standards for sufficient number of test items.

(3) Standards for review of state and national examinations.

(4) Setting of passing standards.

(5) Appropriate funding sources for examination validations and occupational analyses.

(6) Conditions under which boards, programs, and bureaus should use internal and external entities to conduct these reviews.

(7) Standards for determining appropriate costs of reviews of different types of examinations, measured in terms of hours required.

(8) Conditions under which it is appropriate to fund permanent and limited term positions within a board, program, or bureau to manage these reviews.

(c) Every regulatory board and bureau, as defined in Section 22, and every program and bureau administered by the department, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners, shall submit to the director on or before December 1, 1999, and on or before December 1 of each subsequent year, its method for ensuring that every licensing examination administered by or pursuant to contract with the board is subject to periodic evaluation. The evaluation shall include (1) a description of the occupational analysis serving as the basis for the examination; (2) sufficient item analysis data to permit a psychometric evaluation of the items; (3) an assessment of the appropriateness of prerequisites for admittance to the examination; and (4) an estimate of the costs and personnel required to perform these functions. The evaluation shall be revised and a new evaluation submitted to the director whenever, in the judgment of the board, program, or bureau, there is a substantial change in the examination or the prerequisites for admittance to the examination.

(d) The evaluation may be conducted by the board, program, or bureau, the Office of Professional Examination Services of the department, the Osteopathic Medical Board of California, or the State Board of Chiropractic Examiners or pursuant to a contract with a qualified private testing firm. A board, program, or bureau that provides for development or administration of a licensing examination pursuant to contract with a public or private entity may rely on an occupational analysis or item analysis conducted by that entity. The department shall compile this information, along with a schedule specifying when examination validations and occupational analyses shall be performed, and submit it to the appropriate fiscal, policy, and sunset review com-

mittees of the Legislature by September 30 of each year. It is the intent of the Legislature that the method specified in this report be consistent with the policy developed by the department pursuant to subdivision (b).

**HISTORY:** Added Stats 1999 ch 67 § 2 (AB 1105), effective July 6, 1999. Amended Stats 2009 ch 307 § 1 (SB 821), effective January 1, 2010.

#### **§ 140. Disciplinary action; Licensee's failure to record cash transactions in payment of employee wages**

Any board, as defined in Section 22, which is authorized under this code to take disciplinary action against a person who holds a license may take disciplinary action upon the ground that the licensee has failed to record and preserve for not less than three years, any and all cash transactions involved in the payment of employee wages by a licensee. Failure to make these records available to an authorized representative of the board may be made grounds for disciplinary action. In any action brought and sustained by the board which involves a violation of this section and any regulation adopted thereto, the board may assess the licensee with the actual investigative costs incurred, not to exceed two thousand five hundred dollars (\$2,500). Failure to pay those costs may result in revocation of the license. Any moneys collected pursuant to this section shall be deposited in the respective fund of the board.

**HISTORY:** Added Stats 1984 ch 1490 § 2, effective September 27, 1984.

#### **§ 141. Disciplinary action by foreign jurisdiction; Grounds for disciplinary action by state licensing board**

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

**HISTORY:** Added Stats 1994 ch 1275 § 2 (SB 2101).

#### **§ 142. Authority to synchronize renewal dates of licenses; Abandonment date for application; Delinquency fee**

This section shall apply to the bureaus and programs under the direct authority of the director, and to any board that, with the prior approval of the director, elects to have the department administer one or more of the licensing services set forth in this section.

(a) Notwithstanding any other provision of law, each bureau and program may synchronize the renewal dates of licenses granted to applicants with more than one license issued by the bureau or program. To the extent practicable, fees shall be prorated or adjusted so that no applicant shall be required to pay a greater or lesser fee than he or she would have been required to pay if the change in renewal dates had not occurred.

(b) Notwithstanding any other provision of law, the abandonment date for an application that has been returned to the applicant as incomplete shall be 12 months from the date of returning the application.

(c) Notwithstanding any other provision of law, a delinquency, penalty, or late fee shall be assessed if the renewal fee is not postmarked by the renewal expiration date.

**HISTORY:** Added Stats 1998 ch 970 § 2 (AB 2802).

#### **§ 143. Proof of license as condition of bringing action for collection of compensation**

(a) No person engaged in any business or profession for which a license is required under this code governing the department or any board, bureau, commission, committee, or program within the department, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required without alleging and proving that he or she was duly licensed at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person.

(b) The judicial doctrine of substantial compliance shall not apply to this section.

(c) This section shall not apply to an act or contract that is considered to qualify as lawful practice of a licensed occupation or profession pursuant to Section 121.

**HISTORY:** Added Stats 1990 ch 1207 § 1.5 (AB 3242).

**§ 143.5. Provision in agreements to settle certain causes of action prohibited; Adoption of regulations; Exemptions**

(a) No licensee who is regulated by a board, bureau, or program within the Department of Consumer Affairs, nor an entity or person acting as an authorized agent of a licensee, shall include or permit to be included a provision in an agreement to settle a civil dispute, whether the agreement is made before or after the commencement of a civil action, that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee or that requires the other party to withdraw a complaint from the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee. A provision of that nature is void as against public policy, and any licensee who includes or permits to be included a provision of that nature in a settlement agreement is subject to disciplinary action by the board, bureau, or program.

(b) Any board, bureau, or program within the Department of Consumer Affairs that takes disciplinary action against a licensee or licensees based on a complaint or report that has also been the subject of a civil action and that has been settled for monetary damages providing for full and final satisfaction of the parties may not require its licensee or licensees to pay any additional sums to the benefit of any plaintiff in the civil action.

(c) As used in this section, "board" shall have the same meaning as defined in Section 22, and "licensee" means a person who has been granted a license, as that term is defined in Section 23.7.

(d) Notwithstanding any other law, upon granting a petition filed by a licensee or authorized agent of a licensee pursuant to Section 11340.6 of the Government Code, a board, bureau, or program within the Department of Consumer Affairs may, based upon evidence and legal authorities cited in the petition, adopt a regulation that does both of the following:

(1) Identifies a code section or jury instruction in a civil cause of action that has no relevance to the board's, bureau's, or program's enforcement responsibilities such that an agreement to settle such a cause of action based on that code section or jury instruction otherwise prohibited under subdivision (a) will not impair the board's, bureau's, or program's duty to protect the public.

(2) Exempts agreements to settle such a cause of action from the requirements of subdivision (a).

(e) This section shall not apply to a licensee subject to Section 2220.7.

**HISTORY:** Added Stats 2012 ch 561 § 1 (AB 2570), effective January 1, 2013.

**§ 144. Requirement of fingerprints for criminal record checks; Applicability**

(a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) Dental Board of California.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians of the State of California.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Board.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (14) Medical Board of California.
- (15) California State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.

- (23) Contractors State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Podiatric Medical Board of California.
- (28) Osteopathic Medical Board of California.
- (29) California Architects Board, beginning January 1, 2021.
- (30) Landscape Architects Technical Committee, beginning January 1, 2022.
- (31) Bureau of Household Goods and Services with respect to household movers as described in Chapter 3.1 (commencing with Section 19225) of Division 8.

(c) For purposes of paragraph (26) of subdivision (b), the term “applicant” shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

**HISTORY:** Added Stats 1997 ch 758 § 2 (SB 1346). Amended Stats 2000 ch 697 § 1.2 (SB 1046), operative January 1, 2001; Stats 2001 ch 159 § 4 (SB 662), Stats 2001 ch 687 § 2 (AB 1409) (ch 687 prevails); Stats 2002 ch 744 § 1 (SB 1953), Stats 2002 ch 825 § 1 (SB 1952); Stats 2003 ch 485 § 2 (SB 907), Stats 2003 ch 789 § 1 (SB 364), Stats 2003 ch 874 § 1 (SB 363); Stats 2004 ch 909 § 1.2 (SB 136), effective September 30, 2004; Stats 2009 ch 308 § 4 (SB 819), effective January 1, 2010; Stats 2011 ch 448 § 1 (SB 543), effective January 1, 2012; Stats 2015 ch 719 § 1 (SB 643), effective January 1, 2016; Stats 2016 ch 32 § 3 (SB 837), effective June 27, 2016; Stats 2017 ch 775 § 3 (SB 798), effective January 1, 2018; Stats 2018 ch 6 § 1 (AB 106), effective March 13, 2018; Stats 2019 ch 351 § 37 (AB 496), effective January 1, 2020; Stats 2019 ch 376 § 1 (SB 608), effective January 1, 2020; Stats 2019 ch 865 § 1.3 (AB 1519), effective January 1, 2020 (ch 865 prevails); Stats 2020 ch 312 § 5 (SB 1474), effective January 1, 2021; Stats 2021 ch 70 § 3 (AB 141), effective July 12, 2021; Stats 2021 ch 188 § 2 (SB 826), effective January 1, 2022; Stats 2021 ch 630 § 4.5 (AB 1534), effective January 1, 2022 (ch 630 prevails).

### § 144.5. Board authority

Notwithstanding any other law, a board described in Section 144 may request, and is authorized to receive, from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. A local or state agency may provide those records to the board upon request.

**HISTORY:** Added Stats 2013 ch 516 § 1 (SB 305), effective January 1, 2014.

## CHAPTER 1.5 UNLICENSED ACTIVITY ENFORCEMENT

### Section

- 145. Legislative findings and declarations
- 146. Violations of specified authorization statutes as infractions; Punishment
- 147. Authority to issue written notice to appear in court
- 148. Establishment of administrative citation system
- 149. Notice to cease advertising in telephone directory; Contest and hearing; Disconnection of service

**HISTORY:** Added Stats 1992 ch 1135 § 2.

### § 145. Legislative findings and declarations

The Legislature finds and declares that:

- (a) Unlicensed activity in the professions and vocations regulated by the Department of Consumer Affairs is a threat to the health, welfare, and safety of the people of the State of California.
- (b) The law enforcement agencies of the state should have sufficient, effective, and responsible means available to enforce the licensing laws of the state.
- (c) The criminal sanction for unlicensed activity should be swift, effective, appropriate, and create a strong incentive to obtain a license.

**HISTORY:** Added Stats 1992 ch 1135 § 2 (SB 2044).

### § 146. Violations of specified authorization statutes as infractions; Punishment

(a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

- (1) A complaint or a written notice to appear in court pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.
- (2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.



(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

- (1) Section 2474.
- (2) Sections 2052 and 2054.
- (3) Section 2570.3.
- (4) Section 2630.
- (5) Section 2903.
- (6) Section 3575.
- (7) Section 3660.
- (8) Sections 3760 and 3761.
- (9) Section 4080.
- (10) Section 4825.
- (11) Section 4935.
- (12) Section 4980.
- (13) Section 4989.50.
- (14) Section 4996.
- (15) Section 4999.30.
- (16) Section 5536.
- (17) Section 6704.
- (18) Section 6980.10.
- (19) Section 7317.
- (20) Section 7502 or 7592.
- (21) Section 7520.
- (22) Section 7617 or 7641.
- (23) Subdivision (a) of Section 7872.
- (24) Section 8016.
- (25) Section 8505.
- (26) Section 8725.
- (27) Section 9681.
- (28) Section 9840.
- (29) Subdivision (c) of Section 9891.24.
- (30) Section 19049.

(d) Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

**HISTORY:** Added Stats 1992 ch 1135 § 2 (SB 2044). Amended Stats 1993 ch 1264 § 2 (SB 574), ch 1267 § 2.5 (SB 916); Stats 1994 ch 26 § 8 (AB 1807), effective March 30, 1994; Stats 1997 ch 78 § 2 (AB 71); Stats 2001 ch 357 § 1 (AB 1560); Stats 2003 ch 485 § 3 (SB 907); Stats 2009 ch 308 § 5 (SB 819), effective January 1, 2010; Stats 2009 ch 310 § 3.5 (AB 48), effective January 1, 2010; Stats 2015 ch 426 § 2 (SB 800), effective January 1, 2016; Stats 2017 ch 454 § 1 (AB 1706), effective January 1, 2018; Stats 2017 ch 775 § 4.5 (SB 798), effective January 1, 2018 (ch 775 prevails).

#### **§ 147. Authority to issue written notice to appear in court**

(a) Any employee designated by the director shall have the authority to issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. Employees so designated are not peace officers and are not entitled to safety member retirement benefits, as a result of such designation. The employee's authority is limited to the issuance of written notices to appear for infraction violations of provisions of this code and only when the violation is committed in the presence of the employee.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the person, at the time of such arrest, had reasonable cause to believe was lawful.

**HISTORY:** Added Stats 1992 ch 1135 § 2 (SB 2044).

**§ 148. Establishment of administrative citation system**

Any board, bureau, or commission within the department may, in addition to the administrative citation system authorized by Section 125.9, also establish, by regulation, a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. The administrative citation system authorized by this section shall meet the requirements of Section 125.9 and may not be applied to an unlicensed person who is otherwise exempted from the provisions of the applicable licensing act. The establishment of an administrative citation system for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the board, bureau, or commission.

**HISTORY:** Added Stats 1992 ch 1135 § 2 (SB 2044).

**§ 149. Notice to cease advertising in telephone directory; Contest and hearing; Disconnection of service**

(a) If, upon investigation, an agency designated in Section 101 has probable cause to believe that a person is advertising with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

**HISTORY:** Added Stats 1992 ch 1135 § 2 (SB 2044). Amended Stats 1993 ch 1263 § 3 (AB 936); Stats 1994 ch 26 § 9 (AB 1807), effective March 30, 1994, ch 1274 § 1.5 (SB 2039); Stats 1995 ch 60 § 4 (SB 42), effective July 6, 1995; Stats 1998 ch 59 § 5 (AB 969); Stats 2000 ch 1054 § 3 (SB 1863), ch 1055 § 2 (AB 2889), effective September 30, 2000, ch 1055 § 2.5 (AB 2889), effective September 30, 2000; Stats 2003 ch 485 § 4 (SB 907); Stats 2009–2010 4th Ex Sess ch 18 § 3 (ABX4 20), effective October 23, 2009; Stats 2009 ch 308 § 6 (SB 819), effective January 1, 2010, ch 309 § 2 (AB 1535), effective January 1, 2010, ch 310 § 4.7 (AB 48), effective January 1, 2010. See this section as modified in Governor's Reorganization Plan No. 2 § 4 of 2012; Amended Stats 2013 ch 352 § 5 (AB 1317), effective September 26, 2013, operative July 1, 2013, ch 436 § 1 (SB 269), effective January 1, 2014; Stats 2014 ch 395 § 2 (SB 1243), effective January 1, 2015.

**CHAPTER 2 THE DIRECTOR OF CONSUMER AFFAIRS****Section**

- 154.1. Legislative findings and declarations
- 158. Refunds to applicants
- 159. Administration of oaths
- 161. Availability of public records at charge sufficient to pay costs
- 162. Evidentiary effect of certificate of records officer as to license, etc.
- 163. Fee for certification of records, etc.
- 163.5. Delinquency fees; Reinstatement fees
- 164. Form and content of license, certificate, permit, or similar indicia of authority
- 165. Prohibition against submission of fiscal impact analysis relating to pending legislation without prior submission to director for comment

**HISTORY:** Enacted Stats 1937 ch 399. The heading of Chapter 2, amended to read as above by Stats 1973 ch 77 § 2.

**§ 154.1. Legislative findings and declarations**

(a) The Legislature hereby finds and declares all of the following:

(1) The department is currently providing opportunities for employees of agencies comprising the department who perform enforcement functions to attend an entry level enforcement academy.

(2) It is in the best interest of consumers in the state for the department to continue to provide ongoing training opportunities for employees performing enforcement functions for each agency comprising the department.

(b) The department shall continue to develop and make available training courses for employees who perform enforcement functions. The purpose of the training courses is to develop knowledge of enforcement practices for all employees who perform enforcement functions. The department shall encourage an agency

executive officer, registrar, executive director, bureau chief, enforcement manager, supervisor, or staff member to attend enforcement training courses.

(c) The department shall develop the enforcement training curricula in consultation and cooperation with the office of the Attorney General and the Office of Administrative Hearings.

**HISTORY:** Added Stats 2014 ch 395 § 3 (SB 1243), effective January 1, 2015.

### **§ 158. Refunds to applicants**

With the approval of the Director of Consumer Affairs, the boards and commissions comprising the department or subject to its jurisdiction may make refunds to applicants who are found ineligible to take the examinations or whose credentials are insufficient to entitle them to certificates or licenses.

Notwithstanding any other law, any application fees, license fees, or penalties imposed and collected illegally, by mistake, inadvertence, or error shall be refunded. Claims authorized by the department shall be filed with the State Controller, and the Controller shall draw a warrant against the fund of the agency in payment of the refund.

**HISTORY:** Added Stats 1937 ch 474. Amended Stats 1945 ch 1378 § 1; Stats 1971 ch 716 § 11; Stats 2019 ch 351 § 43 (AB 496), effective January 1, 2020.

### **§ 159. Administration of oaths**

The members and the executive officer of each board, agency, bureau, division, or commission have power to administer oaths and affirmations in the performance of any business of the board, and to certify to official acts.

**HISTORY:** Added Stats 1947 ch 1350 § 5.

### **§ 161. Availability of public records at charge sufficient to pay costs**

The department, or any board in the department, may, in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), make available to the public copies of any part of its respective public records, or compilations, extracts, or summaries of information contained in its public records, at a charge sufficient to pay the actual cost thereof. That charge shall be determined by the director with the approval of the Department of General Services.

**HISTORY:** Added Stats 1949 ch 704 § 1. Amended Stats 1963 ch 590 § 1; Stats 1965 ch 371 § 9; Stats 2019 ch 351 § 45 (AB 496), effective January 1, 2020; Stats 2021 ch 615 §§ 3, 463 (AB 474), effective January 1, 2022, operative January 1, 2023.

### **§ 162. Evidentiary effect of certificate of records officer as to license, etc.**

The certificate of the officer in charge of the records of any board in the department that any person was or was not on a specified date, or during a specified period of time, licensed, certified or registered under the provisions of law administered by the board, or that the license, certificate or registration of any person was revoked or under suspension, shall be admitted in any court as prima facie evidence of the facts therein recited.

**HISTORY:** Added Stats 1949 ch 355 § 1.

### **§ 163. Fee for certification of records, etc.**

Except as otherwise expressly provided by law, the department and each board in the department shall charge a fee of two dollars (\$2) for the certification of a copy of any record, document, or paper in its custody or for the certification of any document evidencing the content of any such record, document or paper.

**HISTORY:** Added Stats 1961 ch 1858 § 1. Amended Stats 1963 ch 590 § 2.

### **§ 163.5. Delinquency fees; Reinstatement fees**

Except as otherwise provided by law, the delinquency, penalty, or late fee for any licensee within the Department of Consumer Affairs shall be 50 percent of the renewal fee for such license in effect on the date of the renewal of the license, but not less than twenty-five dollars (\$25) nor more than one hundred fifty dollars (\$150).

A delinquency, penalty, or late fee shall not be assessed until 30 days have elapsed from the date that the licensing agency mailed a notice of renewal to the licensee at the licensee's last known address of record.

The notice shall specify the date for timely renewal, and that failure to renew in a timely fashion shall result in the assessment of a delinquency, penalty, or late fee.

In the event a reinstatement or like fee is charged for the reinstatement of a license, the reinstatement fee shall be 150 percent of the renewal fee for such license in effect on the date of the reinstatement of the license, but not more than twenty-five dollars (\$25) in excess of the renewal fee, except that in the event that such a fee is fixed by statute at less than 150 percent of the renewal fee and less than the renewal fee plus twenty-five dollars (\$25), the fee so fixed shall be charged.

**HISTORY:** Added Stats 1974 ch 743 § 4. Amended Stats 1985 ch 587 § 1.

#### **§ 164. Form and content of license, certificate, permit, or similar indicia of authority**

The form and content of any license, certificate, permit, or similar indicia of authority issued by any agency in the department, including any document evidencing renewal of a license, certificate, permit, or similar indicia of authority, shall be determined by the director after consultation with and consideration of the views of the agency concerned.

**HISTORY:** Added Stats 1971 ch 716 § 15. Amended Stats 1987 ch 850 § 6.

#### **§ 165. Prohibition against submission of fiscal impact analysis relating to pending legislation without prior submission to director for comment**

Notwithstanding any other provision of law, no board, bureau, committee, commission, or program in the Department of Consumer Affairs shall submit to the Legislature any fiscal impact analysis relating to legislation pending before the Legislature until the analysis has been submitted to the Director of Consumer Affairs, or his or her designee, for review and comment. The boards, bureaus, committees, commissions, and programs shall include the comments of the director when submitting any fiscal impact analysis to the Legislature. This section shall not be construed to prohibit boards, bureaus, committees, commissions, and programs from responding to direct requests for fiscal data from Members of the Legislature or their staffs. In those instances it shall be the responsibility of boards, bureaus, committees, commissions, and programs to also transmit that information to the director, or his or her designee, within five working days.

**HISTORY:** Added Stats 1984 ch 268 § 0.2, effective June 30, 1984.

### **CHAPTER 3 FUNDS OF THE DEPARTMENT**

#### Section

- 205. Professions and Vocations Fund
- 206. Dishonored check tendered for payment of fine, fee, or penalty

**HISTORY:** Enacted Stats 1937 ch 399.

#### **§ 205. Professions and Vocations Fund**

(a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

- (1) Accountancy Fund.
- (2) California Architects Board Fund.
- (3) Athletic Commission Fund.
- (4) Barbering and Cosmetology Contingent Fund.
- (5) Cemetery and Funeral Fund.
- (6) Contractors License Fund.
- (7) State Dentistry Fund.
- (8) Home Furnishings and Thermal Insulation Fund.
- (9) California Architects Board-Landscape Architects Fund.
- (10) Contingent Fund of the Medical Board of California.
- (11) Optometry Fund.
- (12) Pharmacy Board Contingent Fund.
- (13) Physical Therapy Fund.
- (14) Private Security Services Fund.
- (15) Professional Engineer's, Land Surveyor's, and Geologist's Fund.
- (16) Consumer Affairs Fund.



- (17) Behavioral Sciences Fund.
- (18) Licensed Midwifery Fund.
- (19) Court Reporters' Fund.
- (20) Veterinary Medical Board Contingent Fund.
- (21) Vocational Nursing and Psychiatric Technicians Fund.
- (22) Electronic and Appliance Repair Fund.
- (23) Acupuncture Fund.
- (24) Physician Assistant Fund.
- (25) Board of Podiatric Medicine Fund.
- (26) Psychology Fund.
- (27) Respiratory Care Fund.
- (28) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.
- (29) Board of Registered Nursing Fund.
- (30) Animal Health Technician Examining Committee Fund.
- (31) State Dental Hygiene Fund.
- (32) Structural Pest Control Fund.
- (33) Structural Pest Control Education and Enforcement Fund.
- (34) Structural Pest Control Research Fund.
- (35) Household Movers Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

**HISTORY:** Added Stats 2019 ch 865 § 3 (AB 1519), effective January 1, 2020, operative July 1, 2022. Amended Stats 2020 ch 121 § 1 (AB 896), effective September 24, 2020, operative July 1, 2022; Stats 2020 ch 312 § 8.5 (SB 1474), effective January 1, 2021, operative July 1, 2022; Stats 2022 ch 511 § 1 (SB 1495), effective January 1, 2023.

## **§ 206. Dishonored check tendered for payment of fine, fee, or penalty**

Notwithstanding any other provision of law, any person tendering a check for payment of a fee, fine, or penalty that was subsequently dishonored, shall not be granted a license, or other authority that they were seeking, until the applicant pays the amount outstanding from the dishonored payment together with the applicable fee, including any delinquency fee. The board may require the person whose check was returned unpaid to make payment of all fees by cashier's check or money order.

**HISTORY:** Added Stats 1994 ch 26 § 12 (AB 1807), effective March 30, 1994.

## **CHAPTER 4 CONSUMER AFFAIRS**

**HISTORY:** Added Stats 1970 ch 1394 § 3, operative July 1, 1971.

## **ARTICLE 5 CONSUMER COMPLAINTS**

### **Section**

- 325. Actionable complaints
- 326. Proceedings on receipt of complaint
- 328. Implementation of Complaint Prioritization Guidelines

**HISTORY:** Added Stats 1970 ch 1394 § 3, operative July 1, 1971.

## **§ 325. Actionable complaints**

It shall be the duty of the director to receive complaints from consumers concerning (a) unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in the conduct of any trade or commerce; (b) the production, distribution, sale, and lease of any goods and services undertaken by any person which may endanger the public health, safety, or welfare; (c) violations of provisions of this code relating to businesses and professions licensed by any agency of the department, and regulations promulgated pursuant thereto; (d) student concerns related to the Bureau for Private Postsecondary Education's performance of its responsibilities, including concerns that arise related to the Bureau for Private Postsecondary Education's handling of a complaint or its administration of the Student Tuition Recovery Fund, established in Article 14 (commencing with Section 94923) of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code; and (e) other matters consistent with the purposes of this chapter, whenever appropriate.

**HISTORY:** Added Stats 1970 ch 1394 § 3, operative July 1, 1971. Amended Stats 2016 ch 593 § 1 (SB 1192), effective January 1, 2017.

**§ 326. Proceedings on receipt of complaint**

(a) Upon receipt of any complaint pursuant to Section 325, the director may notify the person against whom the complaint is made of the nature of the complaint and may request appropriate relief for the consumer.

(b) The director shall also transmit any valid complaint to the local, state or federal agency whose authority provides the most effective means to secure the relief.

The director shall, if appropriate, advise the consumer of the action taken on the complaint and of any other means which may be available to the consumer to secure relief.

(c) If the director receives a complaint or receives information from any source indicating a probable violation of any law, rule, or order of any regulatory agency of the state, or if a pattern of complaints from consumers develops, the director shall transmit any complaint he or she considers to be valid to any appropriate law enforcement or regulatory agency and any evidence or information he or she may have concerning the probable violation or pattern of complaints or request the Attorney General to undertake appropriate legal action. It shall be the continuing duty of the director to discern patterns of complaints and to ascertain the nature and extent of action taken with respect to the probable violations or pattern of complaints.

**HISTORY:** Added Stats 1970 ch 1394 § 3, operative July 1, 1971. Amended Stats 1978 ch 1161 § 8; Stats 1989 ch 1360 § 1.

**§ 328. Implementation of Complaint Prioritization Guidelines**

(a) In order to implement the Consumer Protection Enforcement Initiative of 2010, the director, through the Division of Investigation, shall implement “Complaint Prioritization Guidelines” for boards to utilize in prioritizing their respective complaint and investigative workloads. The guidelines shall be used to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

(b) Neither the Medical Board of California nor the Podiatric Medical Board of California shall be required to utilize the guidelines implemented pursuant to subdivision (a).

(c) On or before July 1, 2019, the director shall amend the guidelines implemented pursuant to subdivision (a) to include the category of “allegations of serious harm to a minor” under the “urgent” or “highest priority” level.

**HISTORY:** Added Stats 2015 ch 656 § 2 (SB 467), effective January 1, 2016. Amended Stats 2017 ch 775 § 5 (SB 798), effective January 1, 2018; Stats 2018 ch 571 § 2 (SB 1480), effective January 1, 2019; Stats 2019 ch 351 § 47 (AB 496), effective January 1, 2020.

**CHAPTER 7 LICENSEE****Section**

461. Asking applicant to reveal arrest record prohibited

464. Retired category of licensure

**HISTORY:** Added Stats 1967 ch 1095 § 1.

**§ 461. Asking applicant to reveal arrest record prohibited**

No public agency, state or local, shall, on an initial application form for any license, certificate or registration, ask for or require the applicant to reveal a record of arrest that did not result in a conviction or a plea of nolo contendere. A violation of this section is a misdemeanor.

This section shall apply in the case of any license, certificate or registration provided for by any law of this state or local government, including, but not limited to, this code, the Corporations Code, the Education Code, and the Insurance Code.

**HISTORY:** Added Stats 1975 ch 883 § 1.

**§ 464. Retired category of licensure**

(a) Any of the boards within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following:

(1) A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.

(2) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.

(3) The holder of a retired license shall not be required to renew that license.

(4) The board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.

(5) In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:

(A) Pay a fee established by statute or regulation.

(B) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.

(C) Comply with the fingerprint submission requirements established by regulation.

(D) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(E) Complete any other requirements as specified by the board by regulation.

(c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.

(d) Subdivisions (a) and (b) shall not apply to a board that has other statutory authority to establish a retired license.

**HISTORY:** Added Stats 2016 ch 473 § 1 (AB 2859), effective January 1, 2017.

## **DIVISION 1.5 DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

### **Chapter**

1. General Provisions
2. Denial of Licenses
3. Suspension and Revocation of Licenses
4. Public Reprovals
5. Examination Security

**HISTORY:** Added Stats 1972 ch 903 § 1.

## **CHAPTER 1 GENERAL PROVISIONS**

### **Section**

475. Applicability of division
476. Exemptions
477. "Board"; "License"
478. "Application"; "Material"

**HISTORY:** Added Stats 1972 ch 903 § 1.

### **§ 475. Applicability of division**

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

**HISTORY:** Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 1; Stats 1992 ch 1289 § 5 (AB 2743).

### **§ 476. Exemptions**

(a) Except as provided in subdivision (b), nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

(b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).

**HISTORY:** Added Stats 1972 ch 903 § 1. Amended Stats 1983 ch 721 § 1; Stats 2011 ch 455 § 2 (AB 1424), effective January 1, 2012.

#### § 477. “Board”; “License”

As used in this division:

(a) “Board” includes “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.”

(b) “License” includes certificate, registration or other means to engage in a business or profession regulated by this code.

**HISTORY:** Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 2; Stats 1983 ch 95 § 1; Stats 1991 ch 654 § 5 (AB 1893).

#### § 478. “Application”; “Material”

(a) As used in this division, “application” includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, “material” includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

**HISTORY:** Added Stats 1992 ch 1289 § 6 (AB 2743).

### CHAPTER 2 DENIAL OF LICENSES

#### Section

480.	Grounds for denial by board; Effect of obtaining certificate of rehabilitation
480.5.	Completion of licensure requirements while incarcerated
481.	Crime and job-fitness criteria
482.	Rehabilitation criteria
484.	Attestation to good moral character of applicant
485.	Procedure upon denial
486.	Contents of decision or notice
487.	Hearing; Time
488.	Hearing request
489.	Denial of application without a hearing

**HISTORY:** Added Stats 1972 ch 903 § 1.

#### § 480. Grounds for denial by board; Effect of obtaining certificate of rehabilitation

(a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 6 (commencing with Section 6500) of Division 3.
- (ii) Chapter 9 (commencing with Section 7000) of Division 3.

(iii) Chapter 11.3 (commencing with Section 7512) of Division 3.

(iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(v) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement. Formal discipline that occurred earlier than seven years preceding the date of application may be grounds for denial of a license only if the formal discipline was for conduct that, if committed in this state by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2, would have constituted an act of sexual abuse, misconduct, or relations with a patient pursuant to Section 726 or sexual exploitation as defined in subdivision (a) of Section 729.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g)(1) For a minimum of three years, each board under this code shall retain application forms and other



documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3)(A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

**HISTORY:** Added Stats 2018 ch 995 § 4 (AB 2138), effective January 1, 2019, operative July 1, 2020. Amended Stats 2019 ch 359 § 1 (AB 1521), effective January 1, 2020, operative July 1, 2020; Stats 2019 ch 578 § 2.5 (AB 1076), effective January 1, 2020, operative July 1, 2020 (ch 578 prevails); Stats 2022 ch 453 § 1 (AB 1636), effective January 1, 2023.

#### **§ 480.5. Completion of licensure requirements while incarcerated**

(a) An individual who has satisfied any of the requirements needed to obtain a license regulated under this division while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing his or her application or a denial of the license solely on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.

(b) Nothing in this section shall be construed to apply to a petition for reinstatement of a license or to limit the ability of a board to deny a license pursuant to Section 480.

(c) This section shall not apply to the licensure of individuals under the initiative act referred to in Chapter 2 (commencing with Section 1000) of Division 2.

**HISTORY:** Added Stats 2014 ch 410 § 1 (AB 1702), effective January 1, 2015.

#### **§ 481. Crime and job-fitness criteria**

(a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

(1) The nature and gravity of the offense.

(2) The number of years elapsed since the date of the offense.

(3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.
- (f) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2018 ch 995 § 7 (AB 2138), effective January 1, 2019, operative July 1, 2020.

#### **§ 482. Rehabilitation criteria**

(a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

- (1) Considering the denial of a license by the board under Section 480.
- (2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

- (1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.
- (2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(d) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2018 ch 995 § 9 (AB 2138), effective January 1, 2019, operative July 1, 2020.

#### **§ 484. Attestation to good moral character of applicant**

No person applying for licensure under this code shall be required to submit to any licensing board any attestation by other persons to his good moral character.

**HISTORY:** Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 9.

#### **§ 485. Procedure upon denial**

Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

(a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

**HISTORY:** Added Stats 1972 ch 903 § 1. Amended Stats 1997 ch 758 § 2.3 (SB 1346).

#### **§ 486. Contents of decision or notice**

Where the board has denied an application for a license under this chapter or Section 496, it shall, in its decision, or in its notice under subdivision (b) of Section 485, inform the applicant of the following:

(a) The earliest date on which the applicant may reapply for a license which shall be one year from the effective date of the decision, or service of the notice under subdivision (b) of Section 485, unless the board prescribes an earlier date or a later date is prescribed by another statute.

(b) That all competent evidence of rehabilitation presented will be considered upon a reapplication.

Along with the decision, or the notice under subdivision (b) of Section 485, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 482.

**HISTORY:** Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 9.5; Stats 1997 ch 758 § 2.4 (SB 1346).

#### **§ 487. Hearing; Time**

If a hearing is requested by the applicant, the board shall conduct such hearing within 90 days from the

date the hearing is requested unless the applicant shall request or agree in writing to a postponement or continuance of the hearing. Notwithstanding the above, the Office of Administrative Hearings may order, or on a showing of good cause, grant a request for, up to 45 additional days within which to conduct a hearing, except in cases involving alleged examination or licensing fraud, in which cases the period may be up to 180 days. In no case shall more than two such orders be made or requests be granted.

**HISTORY:** Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 10; Stats 1986 ch 220 § 1, effective June 30, 1986.

### § 488. Hearing request

(a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

- (1) Grant the license effective upon completion of all licensing requirements by the applicant.
- (2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.
- (3) Deny the license.
- (4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(c) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2018 ch 995 § 11 (AB 2138), effective January 1, 2019, operative July 1, 2020.

### § 489. Denial of application without a hearing

Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480 or 496, may without a hearing deny an application upon any of those grounds, if within one year previously, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that agency has denied an application from the same applicant upon the same ground.

**HISTORY:** Added Stats 1955 ch 1151 § 1, as B & P C § 116. Amended Stats 1978 ch 1161 § 2. Renumbered by Stats 1989 ch 1104 § 1. Amended Stats 1997 ch 758 § 2.5 (SB 1346).

## CHAPTER 3 SUSPENSION AND REVOCATION OF LICENSES

### Section

- 490. Grounds for suspension or revocation; Discipline for substantially related crimes; Conviction; Legislative findings
- 490.5. Suspension of license for failure to comply with child support order
- 491. Procedure upon suspension or revocation
- 492. Effect of completion of drug diversion program on disciplinary action or denial of license
- 493. Evidentiary effect of record of conviction of crime substantially related to licensee's qualifications, functions, and duties
- 494. Interim suspension or restriction order
- 494.5. Agency actions when licensee is on certified list; Definitions; Collection and distribution of certified list information; Timing; Notices; Challenges by applicants and licensees; Release forms; Interagency agreements; Fees; Remedies; Inquiries and disclosure of information; Severability
- 494.6. Suspension under Labor Code Section 244

**HISTORY:** Added Stats 1972 ch 903 § 1.

### § 490. Grounds for suspension or revocation; Discipline for substantially related crimes; Conviction; Legislative findings

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.



(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

**HISTORY:** Added Stats 1974 ch 1321 § 13. Amended Stats 1979 ch 876 § 3; Stats 1980 ch 548 § 1; Stats 1992 ch 1289 § 7 (AB 2743); Stats 2008 ch 33 § 2 (SB 797) (ch 33 prevails), effective June 23, 2008, ch 179 § 3 (SB 1498), effective January 1, 2009; Stats 2010 ch 328 § 2 (SB 1330), effective January 1, 2011.

#### **§ 490.5. Suspension of license for failure to comply with child support order**

A board may suspend a license pursuant to Section 17520 of the Family Code if a licensee is not in compliance with a child support order or judgment.

**HISTORY:** Added Stats 1994 ch 906 § 1 (AB 923), operative January 1, 1996. Amended Stats 2010 ch 328 § 3 (SB 1330), effective January 1, 2011.

#### **§ 491. Procedure upon suspension or revocation**

Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

- (a) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.
- (b) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

**HISTORY:** Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 14; Stats 1975 ch 678 § 1.

#### **§ 492. Effect of completion of drug diversion program on disciplinary action or denial of license**

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

**HISTORY:** Added Stats 1987 ch 1183 § 1. Amended Stats 1994 ch 26 § 15 (AB 1807), effective March 30, 1994.

#### **§ 493. Evidentiary effect of record of conviction of crime substantially related to licensee's qualifications, functions, and duties**

(a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b)(1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

- (A) The nature and gravity of the offense.
- (B) The number of years elapsed since the date of the offense.
- (C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

(c) As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

(d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(e) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2018 ch 995 § 13 (AB 2138), effective January 1, 2019, operative July 1, 2020.

#### **§ 494. Interim suspension or restriction order**

(a) A board or an administrative law judge sitting alone, as provided in subdivision (h), may, upon petition, issue an interim order suspending any licentiate or imposing license restrictions, including, but not limited to, mandatory biological fluid testing, supervision, or remedial training. The petition shall include affidavits that demonstrate, to the satisfaction of the board, both of the following:

(1) The licentiate has engaged in acts or omissions constituting a violation of this code or has been convicted of a crime substantially related to the licensed activity.

(2) Permitting the licentiate to continue to engage in the licensed activity, or permitting the licentiate to continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare.

(b) No interim order provided for in this section shall be issued without notice to the licentiate unless it appears from the petition and supporting documents that serious injury would result to the public before the matter could be heard on notice.

(c) Except as provided in subdivision (b), the licentiate shall be given at least 15 days' notice of the hearing on the petition for an interim order. The notice shall include documents submitted to the board in support of the petition. If the order was initially issued without notice as provided in subdivision (b), the licentiate shall be entitled to a hearing on the petition within 20 days of the issuance of the interim order without notice. The licentiate shall be given notice of the hearing within two days after issuance of the initial interim order, and shall receive all documents in support of the petition. The failure of the board to provide a hearing within 20 days following the issuance of the interim order without notice, unless the licentiate waives his or her right to the hearing, shall result in the dissolution of the interim order by operation of law.

(d) At the hearing on the petition for an interim order, the licentiate may:

(1) Be represented by counsel.

(2) Have a record made of the proceedings, copies of which shall be available to the licentiate upon payment of costs computed in accordance with the provisions for transcript costs for judicial review contained in Section 11523 of the Government Code.

(3) Present affidavits and other documentary evidence.

(4) Present oral argument.

(e) The board, or an administrative law judge sitting alone as provided in subdivision (h), shall issue a decision on the petition for interim order within five business days following submission of the matter. The standard of proof required to obtain an interim order pursuant to this section shall be a preponderance of the evidence standard. If the interim order was previously issued without notice, the board shall determine whether the order shall remain in effect, be dissolved, or modified.

(f) The board shall file an accusation within 15 days of the issuance of an interim order. In the case of an interim order issued without notice, the time shall run from the date of the order issued after the noticed hearing. If the licentiate files a Notice of Defense, the hearing shall be held within 30 days of the agency's receipt of the Notice of Defense. A decision shall be rendered on the accusation no later than 30 days after submission of the matter. Failure to comply with any of the requirements in this subdivision shall dissolve the interim order by operation of law.

(g) Interim orders shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and shall be heard only in the superior court in and for the Counties of Sacramento, San Francisco, Los Angeles, or San Diego. The review of an interim order shall be limited to a determination of whether the board abused its discretion in the issuance of the interim order. Abuse of discretion is established if the respondent board has not proceeded in the manner required by law, or if the court determines that the interim order is not supported by substantial evidence in light of the whole record.

(h) The board may, in its sole discretion, delegate the hearing on any petition for an interim order to an administrative law judge in the Office of Administrative Hearings. If the board hears the noticed petition itself, an administrative law judge shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the board on matters of law. The board shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the administrative law judge. When the petition has been del-

egated to an administrative law judge, he or she shall sit alone and exercise all of the powers of the board relating to the conduct of the hearing. A decision issued by an administrative law judge sitting alone shall be final when it is filed with the board. If the administrative law judge issues an interim order without notice, he or she shall preside at the noticed hearing, unless unavailable, in which case another administrative law judge may hear the matter. The decision of the administrative law judge sitting alone on the petition for an interim order is final, subject only to judicial review in accordance with subdivision (g).

(i) Failure to comply with an interim order issued pursuant to subdivision (a) or (b) shall constitute a separate cause for disciplinary action against any licensee, and may be heard at, and as a part of, the noticed hearing provided for in subdivision (f). Allegations of noncompliance with the interim order may be filed at any time prior to the rendering of a decision on the accusation. Violation of the interim order is established upon proof that the licensee was on notice of the interim order and its terms, and that the order was in effect at the time of the violation. The finding of a violation of an interim order made at the hearing on the accusation shall be reviewed as a part of any review of a final decision of the agency.

If the interim order issued by the agency provides for anything less than a complete suspension of the licensee from his or her business or profession, and the licensee violates the interim order prior to the hearing on the accusation provided for in subdivision (f), the agency may, upon notice to the licensee and proof of violation, modify or expand the interim order.

(j) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section. A certified record of the conviction shall be conclusive evidence of the fact that the conviction occurred. A board may take action under this section notwithstanding the fact that an appeal of the conviction may be taken.

(k) The interim orders provided for by this section shall be in addition to, and not a limitation on, the authority to seek injunctive relief provided in any other provision of law.

(l) In the case of a board, a petition for an interim order may be filed by the executive officer. In the case of a bureau or program, a petition may be filed by the chief or program administrator, as the case may be.

(m) "Board," as used in this section, shall include any agency described in Section 22, and any allied health agency within the jurisdiction of the Medical Board of California. Board shall also include the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. The provisions of this section shall not be applicable to the Medical Board of California, the Board of Podiatric Medicine, or the State Athletic Commission.

**HISTORY:** Added Stats 1993 ch 840 § 1 (SB 842). Amended Stats 1994 ch 1275 § 4 (SB 2101).

**§ 494.5. Agency actions when licensee is on certified list; Definitions; Collection and distribution of certified list information; Timing; Notices; Challenges by applicants and licensees; Release forms; Interagency agreements; Fees; Remedies; Inquiries and disclosure of information; Severability**

(a)(1) Except as provided in paragraphs (2), (3), and (4), a state governmental licensing entity shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee's name is included on a certified list.

(2) The Department of Motor Vehicles shall suspend a license if a licensee's name is included on a certified list. Any reference in this section to the issuance, reactivation, reinstatement, renewal, or denial of a license shall not apply to the Department of Motor Vehicles.

(3) The State Bar of California may recommend to refuse to issue, reactivate, reinstate, or renew a license and may recommend to suspend a license if a licensee's name is included on a certified list. The word "may" shall be substituted for the word "shall" relating to the issuance of a temporary license, refusal to issue, reactivate, reinstate, renew, or suspend a license in this section for licenses under the jurisdiction of the California Supreme Court.

(4) The Department of Alcoholic Beverage Control may refuse to issue, reactivate, reinstate, or renew a license, and may suspend a license, if a licensee's name is included on a certified list.

(b) For purposes of this section:

(1) "Certified list" means either the list provided by the State Board of Equalization or the list provided by the Franchise Tax Board of persons whose names appear on the lists of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code, as applicable.

(2) "License" includes a certificate, registration, or any other authorization to engage in a profession or occupation issued by a state governmental licensing entity. "License" includes a driver's license issued pursuant to Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code. "License" excludes a vehicle registration issued pursuant to Division 3 (commencing with Section 4000) of the Vehicle Code.

(3) "Licensee" means an individual authorized by a license to drive a motor vehicle or authorized by a license, certificate, registration, or other authorization to engage in a profession or occupation issued by a state governmental licensing entity.

(4) "State governmental licensing entity" means any entity listed in Section 101, 1000, or 19420, the office of the Attorney General, the Department of Insurance, the Department of Motor Vehicles, the State Bar of California, the Department of Real Estate, and any other state agency, board, or commission that issues a license, certificate, or registration authorizing an individual to engage in a profession or occupation, including any certificate, business or occupational license, or permit or license issued by the Department of Motor Vehicles or the Department of the California Highway Patrol. "State governmental licensing entity" shall not include the Contractors State License Board.

(c) The State Board of Equalization and the Franchise Tax Board shall each submit its respective certified list to every state governmental licensing entity. The certified lists shall include the name, social security number or taxpayer identification number, and the last known address of the persons identified on the certified lists.

(d) Notwithstanding any other law, each state governmental licensing entity shall collect the social security number or the federal taxpayer identification number from all applicants for the purposes of matching the names of the certified lists provided by the State Board of Equalization and the Franchise Tax Board to applicants and licensees.

(e)(1) Each state governmental licensing entity shall determine whether an applicant or licensee is on the most recent certified list provided by the State Board of Equalization and the Franchise Tax Board.

(2) If an applicant or licensee is on either of the certified lists, the state governmental licensing entity shall immediately provide a preliminary notice to the applicant or licensee of the entity's intent to suspend or withhold issuance or renewal of the license. The preliminary notice shall be delivered personally or by mail to the applicant's or licensee's last known mailing address on file with the state governmental licensing entity within 30 days of receipt of the certified list. Service by mail shall be completed in accordance with Section 1013 of the Code of Civil Procedure.

(A) The state governmental licensing entity shall issue a temporary license valid for a period of 90 days to any applicant whose name is on a certified list if the applicant is otherwise eligible for a license.

(B) The 90-day time period for a temporary license shall not be extended. Only one temporary license shall be issued during a regular license term and the term of the temporary license shall coincide with the first 90 days of the regular license term. A license for the full term or the remainder of the license term may be issued or renewed only upon compliance with this section.

(C) In the event that a license is suspended or an application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the state governmental licensing entity.

(f)(1) A state governmental licensing entity shall refuse to issue or shall suspend a license pursuant to this section no sooner than 90 days and no later than 120 days of the mailing of the preliminary notice described in paragraph (2) of subdivision (e), unless the state governmental licensing entity has received a release pursuant to subdivision (h). The procedures in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial or suspension of, or refusal to renew, a license or the issuance of a temporary license pursuant to this section.

(2) Notwithstanding any other law, if a board, bureau, or commission listed in Section 101, other than the Contractors State License Board, fails to take action in accordance with this section, the Department of Consumer Affairs shall issue a temporary license or suspend or refuse to issue, reactivate, reinstate, or renew a license, as appropriate.

(g) Notices shall be developed by each state governmental licensing entity. For an applicant or licensee on the State Board of Equalization's certified list, the notice shall include the address and telephone number of the State Board of Equalization, and shall emphasize the necessity of obtaining a release from the State Board of Equalization as a condition for the issuance, renewal, or continued valid status of a license or licenses. For an applicant or licensee on the Franchise Tax Board's certified list, the notice shall include the address and telephone number of the Franchise Tax Board, and shall emphasize the necessity of obtaining a release from the Franchise Tax Board as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) The notice shall inform the applicant that the state governmental licensing entity shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 90 calendar days if the applicant is otherwise eligible and that upon expiration of that time period, the license will be denied



unless the state governmental licensing entity has received a release from the State Board of Equalization or the Franchise Tax Board, whichever is applicable.

(2) The notice shall inform the licensee that any license suspended under this section will remain suspended until the state governmental licensing entity receives a release along with applications and fees, if applicable, to reinstate the license.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any moneys paid by the applicant or licensee shall not be refunded by the state governmental licensing entity. The state governmental licensing entity shall also develop a form that the applicant or licensee shall use to request a release by the State Board of Equalization or the Franchise Tax Board. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(h) If the applicant or licensee wishes to challenge the submission of their name on a certified list, the applicant or licensee shall make a timely written request for release to the State Board of Equalization or the Franchise Tax Board, whichever is applicable. The State Board of Equalization or the Franchise Tax Board shall immediately send a release to the appropriate state governmental licensing entity and the applicant or licensee, if any of the following conditions are met:

(1) The applicant or licensee has complied with the tax obligation, either by payment of the unpaid taxes or entry into an installment payment agreement, as described in Section 6832 or 19008 of the Revenue and Taxation Code, to satisfy the unpaid taxes.

(2) The applicant or licensee has submitted a request for release not later than 45 days after the applicant's or licensee's receipt of a preliminary notice described in paragraph (2) of subdivision (e), but the State Board of Equalization or the Franchise Tax Board, whichever is applicable, will be unable to complete the release review and send notice of its findings to the applicant or licensee and state governmental licensing entity within 45 days after the State Board of Equalization's or the Franchise Tax Board's receipt of the applicant's or licensee's request for release. Whenever a release is granted under this paragraph, and, notwithstanding that release, the applicable license or licenses have been suspended erroneously, the state governmental licensing entity shall reinstate the applicable licenses with retroactive effect back to the date of the erroneous suspension and that suspension shall not be reflected on any license record.

(3) The applicant or licensee is unable to pay the outstanding tax obligation due to a current financial hardship. "Financial hardship" means financial hardship as determined by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, where the applicant or licensee is unable to pay any part of the outstanding liability and the applicant or licensee is unable to qualify for an installment payment arrangement as provided for by Section 6832 or Section 19008 of the Revenue and Taxation Code. In order to establish the existence of a financial hardship, the applicant or licensee shall submit any information, including information related to reasonable business and personal expenses, requested by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, for purposes of making that determination.

(i) An applicant or licensee is required to act with diligence in responding to notices from the state governmental licensing entity and the State Board of Equalization or the Franchise Tax Board with the recognition that the temporary license will lapse or the license suspension will go into effect after 90 days and that the State Board of Equalization or the Franchise Tax Board must have time to act within that period. An applicant's or licensee's delay in acting, without good cause, which directly results in the inability of the State Board of Equalization or the Franchise Tax Board, whichever is applicable, to complete a review of the applicant's or licensee's request for release shall not constitute the diligence required under this section which would justify the issuance of a release. An applicant or licensee shall have the burden of establishing that they diligently responded to notices from the state governmental licensing entity or the State Board of Equalization or the Franchise Tax Board and that any delay was not without good cause.

(j) The State Board of Equalization or the Franchise Tax Board shall create release forms for use pursuant to this section. When the applicant or licensee has complied with the tax obligation by payment of the unpaid taxes, or entry into an installment payment agreement, or establishing the existence of a current financial hardship as defined in paragraph (3) of subdivision (h), the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall mail a release form to the applicant or licensee and provide a release to the appropriate state governmental licensing entity. Any state governmental licensing entity that has received a release from the State Board of Equalization and the Franchise Tax Board pursuant to this subdivision shall process the release within five business days of its receipt. If the State Board of Equalization or the Franchise Tax Board determines subsequent to the issuance of a release that the licensee has not complied with their installment payment agreement, the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall notify the state governmental licensing entity and the licensee in a format prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee is



not in compliance and the release shall be rescinded. The State Board of Equalization and the Franchise Tax Board may, when it is economically feasible for the state governmental licensing entity to develop an automated process for complying with this subdivision, notify the state governmental licensing entity in a manner prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee has not complied with the installment payment agreement. Upon receipt of this notice, the state governmental licensing entity shall immediately notify the licensee on a form prescribed by the state governmental licensing entity that the licensee's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The licensee shall be further notified that the license will remain suspended until a new release is issued in accordance with this subdivision.

(k) The State Board of Equalization and the Franchise Tax Board may enter into interagency agreements with the state governmental licensing entities necessary to implement this section.

(l) Notwithstanding any other law, a state governmental licensing entity, with the approval of the appropriate department director or governing body, may impose a fee on a licensee whose license has been suspended pursuant to this section. The fee shall not exceed the amount necessary for the state governmental licensing entity to cover its costs in carrying out the provisions of this section. Fees imposed pursuant to this section shall be deposited in the fund in which other fees imposed by the state governmental licensing entity are deposited and shall be available to that entity upon appropriation in the annual Budget Act.

(m) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section.

(n) Any state governmental licensing entity receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or who has been granted a temporary license under this section shall respond that the license was denied or suspended or the temporary license was issued only because the licensee appeared on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). Any state governmental licensing entity that discloses on its internet website or other publication that the licensee has had a license denied or suspended under this section or has been granted a temporary license under this section shall prominently disclose, in bold and adjacent to the information regarding the status of the license, that the only reason the license was denied, suspended, or temporarily issued is because the licensee failed to pay taxes.

(o) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(p) The State Board of Equalization, the Franchise Tax Board, and state governmental licensing entities, as appropriate, shall adopt regulations as necessary to implement this section.

(q)(1) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the State Board of Equalization or the Franchise Tax Board, pursuant to this section, except to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to this section. The release or other use of information received by a state governmental licensing entity pursuant to this section, except as authorized by this section, is punishable as a misdemeanor. This subdivision may not be interpreted to prevent the State Bar of California from filing a request with the Supreme Court of California to suspend a member of the bar pursuant to this section.

(2) A suspension of, or refusal to renew, a license or issuance of a temporary license pursuant to this section does not constitute denial or discipline of a licensee for purposes of any reporting requirements to the National Practitioner Data Bank and shall not be reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank.

(3) Upon release from the certified list, the suspension or revocation of the applicant's or licensee's license shall be purged from the state governmental licensing entity's internet website or other publication within three business days. This paragraph shall not apply to the State Bar of California.

(r) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(s) All rights to review afforded by this section to an applicant shall also be afforded to a licensee.

(t) Unless otherwise provided in this section, the policies, practices, and procedures of a state governmental licensing entity with respect to license suspensions under this section shall be the same as those applicable with respect to suspensions pursuant to Section 17520 of the Family Code.

(u) No provision of this section shall be interpreted to allow a court to review and prevent the collection of taxes prior to the payment of those taxes in violation of the California Constitution.

(v) This section shall apply to any licensee whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code on or after July 1, 2012.

**HISTORY:** Added Stats 2011 ch 455 § 3 (AB 1424), effective January 1, 2012. Amended Stats 2012 ch 327 § 1 (SB 937), effective January 1, 2013; Stats 2020 ch 312 § 9 (SB 1474), effective January 1, 2021.

#### **§ 494.6. Suspension under Labor Code Section 244**

(a) A business license regulated by this code may be subject to suspension or revocation if the licensee has been determined by the Labor Commissioner or the court to have violated subdivision (b) of Section 244 of the Labor Code and the court or Labor Commissioner has taken into consideration any harm such a suspension or revocation would cause to employees of the licensee, as well as the good faith efforts of the licensee to resolve any alleged violations after receiving notice.

(b) Notwithstanding subdivision (a), a licensee of an agency within the Department of Consumer Affairs who has been found by the Labor Commissioner or the court to have violated subdivision (b) of Section 244 of the Labor Code may be subject to disciplinary action by his or her respective licensing agency.

(c) An employer shall not be subject to suspension or revocation under this section for requiring a prospective or current employee to submit, within three business days of the first day of work for pay, an I-9 Employment Eligibility Verification form.

**HISTORY:** Added Stats 2013 ch 577 § 1 (SB 666), effective January 1, 2014. Amended Stats 2014 ch 71 § 1 (SB 1304), effective January 1, 2015.

### **CHAPTER 4 PUBLIC REPROVALS**

Section

495. Public reproof of licentiate or certificate holder for act constituting grounds for suspension or revocation of license or certificate; Proceedings

**HISTORY:** Added Stats 1977 ch 886 § 1.

#### **§ 495. Public reproof of licentiate or certificate holder for act constituting grounds for suspension or revocation of license or certificate; Proceedings**

Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproof, public reproof and suspension, or public reproof and revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

**HISTORY:** Added Stats 1977 ch 886 § 1. Amended Stats 1997 ch 220 § 2 (SB 68), effective August 4, 1997.

### **CHAPTER 5 EXAMINATION SECURITY**

Section

496. Grounds for denial, suspension, or revocation of license

498. Fraud, deceit or misrepresentation as grounds for action against license

499. Action against license based on licentiate's actions regarding application of another

**HISTORY:** Added Stats 1983 ch 95 § 2.

#### **§ 496. Grounds for denial, suspension, or revocation of license**

A board may deny, suspend, revoke, or otherwise restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

**HISTORY:** Added Stats 1989 ch 1022 § 3.

#### **§ 498. Fraud, deceit or misrepresentation as grounds for action against license**

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the

license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

**HISTORY:** Added Stats 1992 ch 1289 § 8 (AB 2743).

#### **§ 499. Action against license based on licentiate's actions regarding application of another**

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person's application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.

**HISTORY:** Added Stats 1992 ch 1289 § 9 (AB 2743).

### **DIVISION 7 GENERAL BUSINESS REGULATIONS**

**HISTORY:** Added Stats 1941 ch 61 § 1.

## **PART 3 REPRESENTATIONS TO THE PUBLIC**

**HISTORY:** Added Stats 1941 ch 63 § 1.

## **CHAPTER 1 ADVERTISING**

### **ARTICLE 2 PARTICULAR OFFENSES**

Section

17530.7. Retail sale of casket or other burial container, by person other than funeral director, without specified disclosures

**HISTORY:** Added Stats 1941 ch 63 § 1.

#### **§ 17530.7. Retail sale of casket or other burial container, by person other than funeral director, without specified disclosures**

It is unlawful for any person, other than a funeral director as defined in Section 7615, to sell, or offer to sell, on a retail basis, a casket, alternative container, or outer burial container, unless that person does all of the following:

(a) Provides to any person, upon beginning any discussion of prices, a written or printed list containing, but not necessarily limited to, the price of all caskets and containers that are normally offered for sale by that seller. The seller shall also provide a written statement or list that, at a minimum, specifically identifies particular caskets or containers by price and by thickness of metal, type of wood, or other construction, and by interior and color, when a request for specific information on caskets or containers is made in person by any individual. This information shall also be provided over the telephone, upon request.

(b) Places the price in a conspicuous manner on each casket. Individual price tags on caskets shall include the thickness of metal and type of wood or other construction, as applicable, in addition to interior and color information.

(c) Places in a conspicuous manner on each casket represented as having a sealing device of any kind, the following notices in at least eight-point boldface type: "THERE IS NO SCIENTIFIC OR OTHER EVIDENCE THAT ANY CASKET WITH A SEALING DEVICE WILL PRESERVE HUMAN REMAINS."

(d) Furnishes to the buyer prior to the sale, a written or printed itemized statement of all costs associated with the sale.

(e) Provides to the buyer a statement that includes a notice to the buyer that he or she may contact the office of the district attorney in that jurisdiction with any questions or complaints. At a minimum, the information shall be in eight-point boldface type, and state the following: "THE SELLER IS NOT A FUNERAL DIRECTOR AND IS NOT LICENSED BY THE DEPARTMENT OF CONSUMER AFFAIRS, AND MAY NOT OFFER OR PERFORM FUNERAL SERVICES. STATE AND FEDERAL LAWS PROHIBIT A FUNERAL DIRECTOR FROM CHARGING HANDLING FEES FOR A CASKET SUPPLIED BY ANOTHER PARTY. THE MONEYS RECEIVED BY THE SELLER FOR THE PURCHASE OF A CASKET ARE NOT SUBJECT TO STATE LAW GOVERNING MONEY HELD IN TRUST. THE SELLER IS NOT BOUND BY STATE LAWS OR REGULATIONS THAT GOVERN FUNERAL HOMES AND CEMETERIES. THE PURCHASER ENTERS THIS AGREEMENT AT HIS OR HER OWN RISK. FOR MORE INFORMATION, CONTACT THE OFFICE OF THE DISTRICT ATTORNEY IN YOUR COUNTY."

**HISTORY:** Added Stats 1998 ch 286 § 3 (AB 1709).

## **DIVISION 3 PROFESSIONS AND VOCATIONS GENERALLY**

**HISTORY:** Added Stats 1939 ch 30 § 3.

### **CHAPTER 12 CEMETERY AND FUNERAL ACT**

#### Article

1. Administration.
- 1.5. Definitions and Regulation of Cemeteries.
2. Funeral Establishments and Directors.
- 2.5. Cemetery Brokerage Regulations.
- 2.7. Hydrolysis Facilities.
3. Embalmers.
- 3.5. Licenses and Certificates of Authority.
4. Apprentices.
- 4.5. Cremated Remains Disposer.
5. Licenses.
- 5.5. Funeral Practices.
6. Disciplinary Proceedings.
- 6.5. Crematories.
- 6.6. Reduction Facilities.
7. Penal Provisions.
8. Revenue.
9. Preneed Funeral Arrangements.

**HISTORY:** Added Stats 1939 ch 39 § 1. The heading of Chapter 12, which formerly read “Funeral Directors and Embalmers,” amended to read as above by Stats 2015 ch 395 § 3 (AB 180), effective January 1, 2016.

### **ARTICLE 1 ADMINISTRATION**

#### Section

7600. Citation of chapter
7601. Definitions
- 7601.1. Priority of bureau; Protection of the public
7602. Cemetery and Funeral Bureau; Chief; Review
7606. Establishment and enforcement of rules and regulations
7607. Inspection of premises by bureau [Repealed effective January 1, 2027]
7607. Inspection of premises by bureau [Operative January 1, 2027]
7608. Employment of personnel; Compensation
7609. Application of chapter; Exemptions
7610. Actions against bureau
- 7610.1. Enforcement powers and responsibilities of bureau

#### **§ 7600. Citation of chapter**

This chapter of the Business and Professions Code constitutes the chapter on cemetery and funeral law. It may be cited as the Cemetery and Funeral Act.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 2015 ch 395 § 4 (AB 180), effective January 1, 2016.

#### **§ 7601. Definitions**

The following terms as used in this chapter shall have meanings expressed in this section:

- (a) “Department” means the Department of Consumer Affairs.
- (b) “Director” means the Director of Consumer Affairs.
- (c) “Bureau” means the Cemetery and Funeral Bureau.

**HISTORY:** Added Stats 1998 ch 970 § 21 (AB 2802). Amended Stats 2000 ch 568 § 97 (AB 2888).

#### **§ 7601.1. Priority of bureau; Protection of the public**

Protection of the public shall be the highest priority for the Cemetery and Funeral Bureau in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

**HISTORY:** Added Stats 2002 ch 107 § 31 (AB 269).

#### **§ 7602. Cemetery and Funeral Bureau; Chief; Review**

(a)(1) There is in the department the Cemetery and Funeral Bureau, under the supervision and control of the director.

(2) The director may appoint a chief at a salary to be fixed and determined by the director, with the approval of the Director of Finance. The duty of enforcing and administering this chapter is vested in the chief, and the chief is responsible to the director. The chief shall serve at the pleasure of the director.

(3) Every power granted or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the chief, subject to conditions and limitations the director may prescribe.

(b) Notwithstanding any other law, the powers and duties of the bureau, as set forth in this chapter, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter is scheduled to be repealed on January 1, 2025.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1941 ch 813 § 1; Stats 1961 ch 1821 § 71; Stats 1971 ch 716 § 126, ch 1326 § 2; Stats 1998 ch 970 § 22 (AB 2802); Stats 2000 ch 568 § 98 (AB 2888); Stats 2015 ch 395 § 5 (AB 180), effective January 1, 2016; Stats 2015 ch 395 § 5 (AB 180), effective January 1, 2016; Stats 2019 ch 375 § 4 (SB 606), effective January 1, 2020; Stats 2022 ch 625 § 43 (SB 1443), effective January 1, 2023.

### **§ 7606. Establishment and enforcement of rules and regulations**

The bureau may establish necessary rules and regulations for the administration and enforcement of this act and the laws subject to its jurisdiction and prescribe the form of statements and reports provided for in this act. The rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

**HISTORY:** Added Stats 2015 ch 395 § 7 (AB 180), effective January 1, 2016.

### **§ 7607. Inspection of premises by bureau [Repealed effective January 1, 2027]**

(a) The bureau may inspect the premises in which the business of a funeral establishment, cemetery, or crematory is conducted, where embalming is practiced, or where human remains are stored.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1998 ch 970 § 27 (AB 2802); Stats 2000 ch 568 § 100 (AB 2888); Stats 2003 ch 874 § 21 (SB 363); Stats 2015 ch 395 § 8 (AB 180), effective January 1, 2016; Stats 2022 ch 399 § 1 (AB 351), effective January 1, 2023, repealed January 1, 2027.

### **§ 7607. Inspection of premises by bureau [Operative January 1, 2027]**

(a) The bureau may inspect the premises in which the business of a funeral establishment, reduction facility, cemetery, or crematory is conducted, where embalming is practiced, or where human remains are stored.

(b) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 2 (AB 351), effective January 1, 2023, operative January 1, 2027.

### **§ 7608. Employment of personnel; Compensation**

(a) The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service regulations.

With the approval of the Director of Finance, and, subject to the provisions of Section 159.5, the bureau shall employ investigators and attorneys to assist the bureau in prosecuting violations of this chapter, whose compensation and expenses shall be payable only out of the Cemetery and Funeral Fund.

(b) This section shall become operative on July 1, 2016.

**HISTORY:** Added Stats 2015 ch 395 § 10 (AB 180), effective January 1, 2016, operative July 1, 2016.

### **§ 7609. Application of chapter; Exemptions**

This chapter does not apply to, or in any way interfere with, the duties of any officer of any public institution or of any duly accredited medical college, nor does it apply to any hospital licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or anyone engaged only in the furnishing of burial receptacles.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1974 ch 1512 § 1; Stats 2015 ch 395 § 11 (AB 180), effective January 1, 2016.

### **§ 7610. Actions against bureau**

All suits or actions commenced in the superior court against the bureau shall be filed and tried either in the County of Sacramento, or in the county of the residence of the plaintiff or petitioner, or in the county where the act occurred, which is the basis of the suit or action.

**HISTORY:** Added Stats 1951 ch 815 § 4. Amended Stats 1998 ch 970 § 30 (AB 2802); Stats 2000 ch 568 § 102 (AB 2888).

### **§ 7610.1. Enforcement powers and responsibilities of bureau**

In the enforcement of this act and the laws subject to its jurisdiction, the bureau has all the powers and is



subject to all the responsibilities vested in and imposed upon the head of a department under Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

**HISTORY:** Added Stats 2015 ch 395 § 12 (AB 180), effective January 1, 2016.

## ARTICLE 1.5 DEFINITIONS AND REGULATION OF CEMETERIES

### Section

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**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

### § 7611. Governing definitions

The definitions in this article govern the meaning of terms used in the act except as otherwise provided expressly or by necessary implication.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### § 7611.1. "Act"

"Act" means the Cemetery and Funeral Bureau Act.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### § 7611.2. "Cemetery broker"

A "cemetery broker" is a person who, other than in reference to an occasional sale, sells or offers for sale,

buys, or offers to buy, lists, leases or offers to lease, or solicits, or negotiates the purchase or sale, lease, or exchange of cemetery property or interment services, or interest therein, for his or her own account or for another.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

### **§ 7611.3. “Cemetery salesperson”**

A “cemetery salesperson” is a natural person who, other than in reference to an occasional sale, is employed by a cemetery broker to sell, or offer for sale, list or offer to list, or to buy, or to offer to buy, or to lease, or offer to lease, or to solicit, or to negotiate the purchase or sale or lease or exchange of cemetery property or interment services, or any interest therein, for his or her own account or for another.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

### **§ 7611.4. “Cemetery manager”**

(a) A “cemetery manager” is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, operating, or improving a cemetery licensed under this chapter, the interring of human remains, and the care, preservation, and embellishment of cemetery property.

(b) For persons licensed pursuant to Section 7637.1, a “cemetery manager” is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the following:

- (1) The maintaining, operating, or improving of a cemetery licensed under this chapter.
- (2) The interment of human remains.
- (3) The care, preservation, and embellishment of cemetery property.
- (4) Activities described in Section 7637.2.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

### **§ 7611.5. “Crematory manager”**

A “crematory manager” is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining or operating of a crematory licensed under this chapter, and the cremation of human remains.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

### **§ 7611.6. Applicability of specified definitions**

The definitions in Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 of the Health and Safety Code are applicable to this act.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

### **§ 7611.7. “Cemetery licensee”**

“Cemetery licensee” means any cemetery broker, cemetery salesperson, or cemetery manager.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

### **§ 7611.8. “Crematory licensee”**

“Crematory licensee” shall mean a corporation, partnership, or natural person licensed pursuant to Article 6.5 (commencing with Section 7712) and shall mean a cemetery licensee for purposes of disciplinary action under Article 6 (commencing with Section 7686).

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

### **§ 7611.9. “Cremated remains disposer” [Repealed effective January 1, 2027]**

(a) A “cremated remains disposer” is a person who, for their own account or for another, disposes of, or offers to dispose of, cremated human remains or hydrolyzed human remains by scattering over or on land or sea.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 2 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 3 (AB 351), effective January 1, 2023, repealed January 1, 2027.

### **§ 7611.9. Cremated remains disposer [Operative January 1, 2027]**

(a) A “cremated remains disposer” is a person who, for the person’s own account or for another, disposes of, or offers to dispose of, cremated human remains or hydrolyzed human remains by scattering over or on

land or sea. A “cremated remains disposer” also includes a person who, for the person’s own account or for another, integrates into the soil, or offers to integrate into the soil, reduced human remains.

(b) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 4 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 7611.10. “Endowment care” or “endowed care”**

“Endowment care” or “endowed care” shall include both general and special care funds.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7611.12. “Licensed hydrolysis facility”**

(a) “Licensed hydrolysis facility” means a corporation, partnership, or natural person licensed pursuant to Article 2.7 (commencing with Section 7639). A licensed hydrolysis facility shall be considered a cemetery licensee for purposes of disciplinary action pursuant to Article 6 (commencing with Section 7686).

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 3, effective January 1, 2018, operative July 1, 2020.

#### **§ 7612. “Occasional sale”**

An “occasional sale” is a sale of cemetery property not acquired or held for purposes of resale or speculation, provided such sale is not one of a series of sales sufficient in number, scope, and character to constitute engaging in the business of selling or reselling or holding for speculation cemetery property.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

##### **§ 7612.1. “Public cemetery”**

“Public cemetery” means a cemetery owned and operated by a city, county, city and county, or public cemetery district.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

##### **§ 7612.2. Excluded organizations and facilities**

This act does not apply to any of the following:

(a) A religious corporation, church, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them.

(b) A public cemetery.

(c) Any private or fraternal burial park not exceeding 10 acres in area, established prior to September 19, 1939; however, (1) those cemeteries shall be subject to the cemetery brokerage provisions of this act, and (2) any cemetery shall be subject to all of the provisions of this act if it collects a care, maintenance, or embellishment deposit or sets up a trust for burial purposes pursuant to Section 8775 of the Health and Safety Code, including funeral services such as mortuary, cremation, or other commodities or services furnished at the time of and in connection with that funeral or cremation.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

##### **§ 7612.3. Disclosure on Web site**

The bureau shall disclose on its Internet Web site, information about each cemetery subject to the jurisdiction of the bureau. In addition to the information required by Section 27, the bureau shall disclose the name of the owner of each cemetery, the name of the cemetery, the business address of the cemetery owner, and the physical address of the cemetery.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

##### **§ 7612.4. Minimum standards of maintenance**

(a) Notwithstanding Section 8115 of the Health and Safety Code, in order to protect consumers, the bureau shall adopt regulations that establish minimum standards of maintenance for endowment care cemeteries under the jurisdiction of the bureau. The regulations shall consider differences in cemetery size, location, topography, and type of interments. The regulations shall also consider the extent to which funds are available from the cemetery’s endowment care funds to perform maintenance.

(b) The standards established pursuant to this section shall not supersede any standards of a higher level of care established pursuant to Section 8115 of the Health and Safety Code.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7612.5. Required notification of prior revocation, suspension, probation, or surrender of license or registration**

(a)(1) Any person who holds or has held, or was named on, any license or registration under the jurisdiction of the bureau that has been, within the immediately preceding 10 years, revoked, suspended, placed on probation, or surrendered under a stipulated decision, and who is employed by, or who seeks employment with, a licensed cemetery, a licensed crematory, or a licensed cemetery broker in any capacity, shall inform the licensed cemetery manager, the licensed crematory manager, or the licensed cemetery broker of that revocation, suspension, probation, or surrender.

(2) A person subject to this subdivision shall inform the licensed cemetery manager, the licensed crematory manager, or the licensed cemetery broker upon application for employment by completing a form that shall be made available by the bureau.

(b) The cemetery manager, crematory manager, or cemetery broker who is informed pursuant to subdivision (a) shall notify the bureau by submitting the form within 30 days of being so informed. Failure of the cemetery manager, crematory manager, or cemetery broker to notify the bureau shall be a cause for a warning. A cemetery manager, crematory manager, or cemetery broker shall not be subject to a warning if his or her failure to notify the bureau is due to a false statement made by an employee.

(c) Any person required to notify the cemetery manager, crematory manager, or cemetery broker under subdivision (a) who fails to do so or who makes a false statement on the required form shall be subject to disciplinary action if that person is a licensee of the bureau, or that failure or false statement shall be cause for denial of a license under Section 480.

(d) For purposes of subdivision (a), the term "named on" applies to a person who was an owner, partner, or corporate officer of an entity that was licensed or registered under the act at the time that entity's license or registration under the act was revoked, suspended, placed on probation, or surrendered.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7612.6. Annual report; Audit report of endowment care and special care funds**

(a) Each cemetery authority shall file with the bureau annually, on or before June 1, or within five months after close of their fiscal year provided approval has been granted by the bureau as provided for in Section 7612.7, a written report in a form prescribed by the bureau setting forth the following:

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care by specific periods as set forth in the form prescribed.

(2) The amount collected and deposited in both the general and special endowment care funds segregated as to the amounts for crypts, niches, and grave space by specific periods as set forth either on the accrual or cash basis at the option of the cemetery authority.

(3) A statement showing separately the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall actually show the financial condition of the funds.

(4) A statement showing separately the location, description, and character of the investments in which the special endowment care funds are invested. The statement shall show the valuations of any securities held in the endowment care fund as valued pursuant to Section 7614.7.

(5) A statement showing the transactions entered into between the corporation or any officer, employee, or stockholder thereof and the trustees of the endowment care funds with respect to those endowment care funds. The statement shall show the dates, amounts of the transactions, and shall contain a statement of the reasons for those transactions.

(b) The report shall be verified by the president or vice president and one other officer of the cemetery corporation. The information submitted pursuant to paragraphs (2), (3), (4), and (5) of subdivision (a) shall be accompanied by an annual audit report, prepared in accordance with generally accepted accounting principles, of the endowment care fund and special care fund signed by a certified public accountant or public accountant. The scope of the audit shall include the inspection, review, and audit of the general purpose financial statements of the endowment care fund and special care fund, which shall include the balance sheet, the statement of revenues, expenditures, and changes in fund balance.

(c) If a cemetery authority files a written request prior to the date the report is due, the bureau may, in its discretion, grant an extension for no more than an additional nine months within which to file the report.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016. Amended Stats 2016 ch 634 § 6 (SB 1479), effective January 1, 2017; Stats 2017 ch 750 § 1 (AB 926), effective January 1, 2018.

#### **§ 7612.7. Change of report filing date**

Each cemetery authority requesting a change of filing date of the endowment care fund report from a calendar year to a fiscal year or a change in fiscal year shall file a petition with the bureau prior to the close of the year of request. The bureau may approve such petition provided that no report shall be for a period of more than 12 months.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7612.8. Report's statement as to trustees; Change of trustee**

The report shall state the name of the trustee or trustees of the endowment care fund. Any change of trustee shall be reported to the bureau within a period of 30 days after the change is made.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7612.9. Report as public record; Public inspection**

A copy of each annual audit report shall be transmitted to the bureau and shall be a public record. It shall also be open for public inspection at the offices of the cemetery authority during normal business hours. If the cemetery authority does not maintain offices in the county in which its cemetery is located, it shall file a copy of the annual audit report with the county clerk of the county, which shall be subject to public inspection.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7612.10. Fine for failure to file report**

(a) Any cemetery authority that does not file its report within the time prescribed by Section 7612.6 may be assessed a fine by the bureau in an amount not to exceed four hundred dollars (\$400) per month for a maximum of five months. The amount of the fine shall be established by regulation in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Failure to pay the fine within 15 days after receipt of written notification of the assessment or, where a timely request for waiver or reduction of the fine has been filed, within 15 days after receipt of written notification of the bureau's decision in the matter, shall be cause for disciplinary action.

(b) A cemetery authority may request waiver or reduction of a fine by making a written request therefor. The request shall be postmarked within the time specified above for payment of the fine and shall be accompanied by a statement showing good cause for the request.

(c) The bureau may waive or reduce the fine where a timely request is made and where it determines, in its discretion, that the cemetery authority has made a sufficient showing of good cause for the waiver or reduction.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7612.11. Study on endowment care fund levels; Report to legislative policy committees**

(a) The bureau shall conduct a study to obtain information to determine if the endowment care fund levels of each licensee's cemetery are sufficient to cover the cost of future maintenance. The bureau shall also review the levels of endowment care funds that have previously been reported pursuant to this chapter by licensed cemeteries.

(b) The bureau shall report its findings and recommendations to the appropriate policy committees of the Legislature by January 1, 2029.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016. Amended Stats 2021 ch 442 § 1 (AB 651), effective January 1, 2022.

#### **§ 7613. Bureau's examination of reports**

The bureau shall examine the reports filed with it as to their compliance with the requirements of the Health and Safety Code as to the amount of endowment care funds collected and as to the manner of investment of those funds.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7613.1. Bureau's examination of endowment care funds; Examination expenses**

The bureau shall examine the endowment care funds of a cemetery authority:

- (a) Whenever it deems necessary and at least once every five years.



(b) Whenever the cemetery authority in charge of endowment care funds fails to file the report required by this article.

(c) Whenever the accountant or auditor qualifies their certification of the report that is prepared and signed by a certified public accountant licensed in the state and prepared in accordance with Section 7612.6.

(d) Whenever the bureau receives a valid complaint alleging the authority has engaged in financial misconduct or neglect of duties.

(e) The reasonable and necessary cost of the examination performed under subdivision (b) or (c) shall be paid by the cemetery authority.

(f) A certified copy of the actual costs, or a good faith estimate of the costs where actual costs are not available, signed by the director or the director's designee, shall be prima facie evidence of the reasonable and necessary costs of the examination.

(g) The actual and necessary expense of the examination under subdivision (a) shall, in the discretion of the bureau, be paid by the cemetery authority whenever the examination requires more than one day and the need for continuing the examination is directly related to identified omissions and errors in the management of endowment care funds.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016. Amended Stats 2021 ch 442 § 2 (AB 651), effective January 1, 2022.

### **§ 7613.2. Refusal or revocation of certificate of authority if refusal to pay examination expenses; Credit of examination expense moneys to Cemetery and Funeral Fund**

(a) If any cemetery authority refuses to pay such expenses, the bureau shall refuse it a certificate of authority and shall revoke any existing certificate of authority. All examination expense moneys collected by the bureau shall be paid into the State Treasury to the credit of the Cemetery and Funeral Fund.

(b) This section shall become operative on July 1, 2016.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016, operative July 1, 2016.

### **§ 7613.3. Inspection authority of bureau**

(a) In making the examination, the bureau:

(1) Shall have free access to the books and records relating to the trust funds, their collection and investment, and the number of graves, crypts, and niches under endowment care.

(2) Shall inspect and examine the trust funds to determine their condition and the existence of the investments.

(3) Shall ascertain if the cemetery corporation has complied with all the laws applicable to trust funds.

(b) Upon request by the bureau, a cemetery authority shall provide records to substantiate the expenditures of the income of the trust funds. If a cemetery authority fails to reasonably comply with this request, the bureau may have access to books, records, and accounts of a cemetery authority for purposes of ascertaining compliance with applicable laws.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

### **§ 7613.4. Limited liability company certificated as cemetery authority; Required security**

(a) Subject to subdivision (b), a limited liability company certificated as a cemetery authority pursuant to Section 7018 of the Health and Safety Code may provide services of licensed cemetery brokers, cemetery salespersons, cemetery managers, funeral directors, embalmers, crematorium licensees, and any other person licensed under this code to provide services relating to cemeteries and funerals by employing one or more of these licensed persons.

(b) At the time of certification, and at all times during which a limited liability company transacts intrastate business as a cemetery authority, the company shall be required to provide security for claims against it based upon acts, errors, or omissions of its licensed employees as described in subdivision (a) by complying with one, or a combination, of the following:

(1)(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims. However, the total aggregate limit of liability under the policy or policies of insurance for a limited liability company that employs five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for a limited liability company that employs more than five licensees, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee except that the maximum amount of insurance is not required to exceed five million dollars (\$5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims

as set forth in this paragraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover:

(i) In the case of a claims-made policy, claims initially asserted in the designated period.

(ii) In the case of an occurrence policy, occurrences during the designated period.

(B) For purposes of this paragraph, "designated period" means a policy year or any other designated period in the policy that is not greater than 12 months.

(C) The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the limited liability company to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this paragraph may be subject to a deductible or self-insured retention.

(D) Upon the dissolution and winding up of the limited liability company, the company shall, with respect to any insurance policy or policies then maintained pursuant to this paragraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum aggregate limit of liability required to comply with this paragraph for a minimum of three years if reasonably available from the insurer.

(2) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims. However, the maximum amount of security for a limited liability company that employs five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for a limited liability company that employs more than five licensees rendering professional services on behalf of the company, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee except that the maximum amount of security is not required to exceed five million dollars (\$5,000,000). The limited liability company remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the limited liability company, it shall be deemed to be in compliance with this paragraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the limited liability company has provided the required amount of security by designating and segregating funds in compliance with the requirements of this paragraph.

(3) Unless the limited liability company has satisfied paragraph (4), each member of a limited liability company certificated as a cemetery authority that provides professional services rendered by employees who are licensed professionals described in subdivision (a), by virtue of that person's status as a member, thereby automatically guarantees payment of the difference between the maximum amount of security required for the limited liability company by this subdivision and the security otherwise provided in accordance with paragraphs (1) and (2), provided that the aggregate amount paid by all members under these guarantees shall not exceed the difference. Neither withdrawal by a member nor the dissolution and winding up of the limited liability company shall affect the rights or obligations of a member arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this paragraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subdivision shall affect or impair the rights or obligations of the members among themselves, or the limited liability company, including, but not limited to, rights of contribution, subrogation, or indemnification.

(4) Confirming, pursuant to the procedure in subdivision (c) of Section 16956 of the Corporations Code, that, as of the most recently completed fiscal year of the limited liability company, it had a net worth equal to or exceeding ten million dollars (\$10,000,000). The limited liability company shall transmit evidence of this paragraph to the bureau in a form similar to the form submitted by a limited liability partnership providing alternative security provisions pursuant to subdivision (c) of Section 16956 of the Corporations Code.

(c)(1) A limited liability company may aggregate the security required pursuant to paragraphs (1) to (4), inclusive, of subdivision (b).

(2) For purposes of compliance with this section, the provisions of subdivision (d) of Section 16956 of the Corporations Code shall apply to a limited liability company certificated as a cemetery authority.

**§ 7613.5. Ownership interest as member in limited liability company certificated as cemetery authority; Violations; Suspension and reinstatement of certificate of authority**

(a) A person licensed under this code as a cemetery broker, cemetery salesperson, cemetery manager, funeral director, embalmer, crematorium licensee, or other person licensed to provide services related to cemeteries and funerals shall not have any ownership interest as a member in a limited liability company certificated as a cemetery authority pursuant to Section 7018 of the Health and Safety Code.

(b) If a limited liability company admits, as a member with ownership interest, a licensed person described in subdivision (a), the limited liability company, by operation of law, shall be deemed in violation of subdivision (e) of Section 17701.04 of the Corporations Code, and the members shall be treated as partners with joint and several liability for claims made upon acts, errors, or omissions arising out of services provided by any licensed person described in subdivision (a).

(c) If the bureau determines that a licensed cemetery broker, cemetery salesperson, cemetery manager, funeral director, embalmer, crematorium licensee, or other person licensed to provide services related to cemeteries and funerals has an ownership interest as a member in the limited liability company, the bureau shall suspend the limited liability company's certificate of authority. The bureau shall reinstate the certificate of authority only upon finding that the licensed cemetery broker, cemetery salesperson, cemetery manager, funeral director, embalmer, crematorium licensee, or other person licensed to provide services related to cemeteries and funerals has been divested of his or her ownership interest in the limited liability company or has voluntarily surrendered his or her license.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

**§ 7613.6. Examination of persons under oath**

The bureau may administer oaths and examine under oath any person relative to the endowment care fund. The examination shall be conducted in the principal office of the person or body in charge of the endowment care fund and shall be private.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

**§ 7613.7. Compliance with endowment care fund minimum amounts**

If any examination made by the bureau, or any report filed with it, shows that there has not been collected and deposited in the endowment care funds the minimum amounts required by the Health and Safety Code since September 19, 1939, the bureau shall require a cemetery corporation to comply with Sections 8743 and 8744 of the Health and Safety Code.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

**§ 7613.8. Order requiring reinvestment of funds**

Whenever the bureau finds, after notice and hearing, that any endowment care funds have been invested in violation of the Health and Safety Code, it shall by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity to that code within a period which shall be not less than two years if the investment was made prior to October 1, 1949, not less than six months if the investment was made on or after October 1, 1949, and before the effective date of the amendment of this section by the 1969 Regular Session of the Legislature, and not less than 30 days if the investment is made on or after the effective date of the amendment. The period may be extended by the bureau in its discretion.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

**§ 7613.9. Conservatorship of funds**

The superior court of the county in which the principal office of the cemetery authority in charge of endowment care funds is located shall, upon the filing by the bureau of a verified application showing any of the following conditions hereinafter enumerated to exist, issue its order vesting title to any endowment care funds of a cemetery authority in the bureau, and directing the bureau forthwith to take possession of all necessary books, records, property, real and personal, and assets, and to conduct as conservator, the management of such endowment care funds, or so much thereof as to the bureau may seem appropriate:

(a) That the cemetery authority has refused to submit its books, papers, accounts, or affairs to the reasonable examination of the bureau.

(b) That the cemetery authority has neglected to observe an order of the bureau to make good within the time prescribed by law any deficiency in its investments of endowment care funds.

- (c) That the cemetery authority is found, after an examination, to be in such condition that its further management of its endowment care funds will be hazardous to its members, plotholders, or to the public.
- (d) That the cemetery authority has violated its articles of incorporation or any law of the state.
- (e) That any officer, director, agent, servant, or employee of the cemetery authority person refuses to be examined under oath relative to the endowment care funds thereof.
- (f) That any person has embezzled or otherwise wrongfully diverted any of the endowment care funds of the cemetery authority.
- (g) The order shall continue in force and effect until, on the application either of the bureau or of the cemetery authority, it shall, after a full hearing, appear to the court that the ground for the order does not exist or has been removed and that the cemetery authority can properly resume title and possession of its property and the management of its endowment care funds.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7613.10. Seizure of records**

When it has been alleged by verified petition pursuant to Section 7613.1 or when the bureau on its own investigation determines that there is probable cause to believe that any of the conditions set forth in Section 7613.9 exist or that irreparable loss and injury to the endowment care funds of a cemetery authority has occurred or may occur unless the bureau so acts immediately, the bureau, without notice and before applying to the court for any order, may take possession of the endowment care funds and the books, records, and accounts relating thereto of the cemetery authority, and retain possession subject to the order of the court. Any person having possession of and refusing to deliver any assets, books, or records of a cemetery authority against which a seizure order has been issued by the bureau shall be guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment not exceeding one year, or by both that fine and imprisonment.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614. Cemetery cost reimbursement**

If any city, county, or city and county exercises its authority to address public health, safety, or welfare issues in connection with a cemetery within its jurisdiction and if the certificate of authority of the cemetery has been revoked or suspended or has not been renewed, and the bureau holds the endowment care fund of the certificate of authority under applicable provisions of this code, the costs of any action that constitutes care, maintenance, or embellishment of the cemetery within the meaning of Section 8726 of the Health and Safety Code shall be eligible for reimbursement from available income from any endowment care fund in existence for the cemetery. For purposes of this section, local jurisdiction action may be based on charter, ordinance, or inherent police powers. Any claim for money or damages for an act or omission by the local jurisdiction acting in accord with this section shall be subject to all otherwise applicable immunities contained in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614.1. Assistance of sheriff and police in making seizure**

Whenever the bureau makes any seizure as provided in Section 7613.10, it shall, on demand of the bureau, be the duty of the sheriff of any county of this state, and of the police department of any municipal corporation therein, to furnish the bureau with deputies, patrolmen, or officers as may be necessary to assist the bureau in making and enforcing that seizure.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614.2. Conservatorship proceeding after seizure**

Immediately after effecting a seizure pursuant to Section 7613.10, the bureau shall institute a proceeding as provided for in Section 7613.9.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614.3. Department as custodian of conservatorship funds or funds taken under seizure order**

Notwithstanding any other law, the bureau shall be the custodian of all moneys collected or surrendered pursuant to Sections 7613.9 and 7613.10. As custodian, the bureau may deposit those moneys, or any part thereof, without court approval, in any of the following: a bank or trust company legally authorized and em-



powered by the state to act as a trustee in the handling of trust funds; in a centralized State Treasury system bank account; or in funds administered by the State Treasurer.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614.4. Administration of Elkin Property**

The bureau shall maintain, regulate, operate, and control the property situated in the County of Amador, referred to as the Elkin Property in Judicial Council Coordination Proceedings Nos. 1814 and 1817, Order Re Proposed Neptune Memorial, Disposition of the Elkin Property, and Order Re Final Disposition of Ashes of the Sacramento Superior Court, and legally described as "Parcel 16-B as shown on the certain Record or Survey for Eugene S. Lowrance, et ux, filed for record May 17, 1971, in Book 17 of Maps and Plats at page 87, Amador County Records." The bureau shall administer and supervise endowment funds established by the court for the property. The bureau shall exercise the authority granted by this section for the sole purpose of protecting the human remains resting on the property and preserving the property in its natural state.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614.5. Right of bureau to bring actions to enforce the law**

The bureau is authorized to bring action to enforce the provisions of the law subject to its jurisdiction, in which actions it shall be represented by the Attorney General.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614.6. Enforcement and administration of Health and Safety Code cemetery provisions**

The bureau shall enforce and administer Part 1 (commencing with Section 8100), Part 3 (commencing with Section 8250), and Part 5 (commencing with Section 9501) of Division 8 of the Health and Safety Code.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614.7. Valuation of debt instruments not in default**

In any report to the bureau, all bonds, debentures, or other evidences of debt held by a cemetery corporation if amply secured and if not in default as to principal or interest may be valued as follows:

- (a) If purchased at par at the par value.
- (b) If purchased above or below par on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield the effective rate of interest on the basis at which the purchase was made.
- (c) In such valuation, the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614.8. Valuation of debt instrument in default**

Any security or other evidence of debt if in default as to principal or interest or if not amply secured shall not be valued as an asset of the endowment care fund above its market value.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.

#### **§ 7614.9. Provision of copy of preneed agreement to survivor or responsible party; Penalty for knowing failure to provide**

Notwithstanding any other law, every cemetery authority shall present to the survivor of the deceased who is handling the burial or cremation arrangements or the responsible party a copy of any preneed agreement that has been signed and paid in full, or in part, by or on behalf of the deceased and is in the possession of the cemetery authority. The copy may be presented in person, by certified mail, or by facsimile transmission, as agreed upon by the survivor of the deceased or the responsible party. A cemetery authority who knowingly fails to present the preneed agreement to the survivor of the deceased or the responsible party shall be liable for a civil fine equal to three times the cost of the preneed agreement, or one thousand dollars (\$1,000), whichever is greater.

**HISTORY:** Added Stats 2015 ch 395 § 13 (AB 180), effective January 1, 2016.



## ARTICLE 2 FUNERAL ESTABLISHMENTS AND DIRECTORS

### Section

- 7615. "Funeral director"
- 7616. Licensed funeral establishments; Requirement of funeral director's license; Conduct of ambulance service
- 7616.2. Employment of licensed funeral director by licensed funeral establishment
- 7617. Fixed place of business; Necessity of license
- 7617.1. Applicant requirements for funeral establishment license
- 7618. Application for funeral director's license
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- 7619.3. Licensed establishment
- 7622. Examination for license; Subjects
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- 7622.3. [Section repealed 1999.]
- 7622.5. Payment of examination fee
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- 7631. Death of licensee; Temporary license to legal representative; Term; Extension
- 7632. By whom bodies may be embalmed
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- 7634. Removal of tissue by embalmer for anatomical gift purposes
- 7635. Training program for employees or agents of funeral establishments
- 7636. Requirement to notify funeral director of prior revocation, suspension, probation, or surrender of license or registration

**HISTORY:** Heading of Article 2 amended by Stats 1998 ch 970 § 31.

### § 7615. "Funeral director"

A funeral director is a person engaged in or conducting, or holding himself or herself out as engaged in any of the following:

- (a) Preparing for the transportation or burial or disposal, or directing and supervising for transportation or burial or disposal of human remains.
- (b) Maintaining an establishment for the preparation for the transportation or disposition or for the care of human remains.
- (c) Using, in connection with his or her name, the words "funeral director," or "undertaker," or "mortician," or any other title implying that he or she is engaged as a funeral director.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1974 ch 1512 § 2; Stats 1996 ch 1151 § 1 (AB 2877).

### § 7616. Licensed funeral establishments; Requirement of funeral director's license; Conduct of ambulance service

(a) A licensed funeral establishment is a place of business conducted in a building or separate portion of a building having a specific street address or location and devoted exclusively to those activities as are incident, convenient, or related to the preparation and arrangements, financial and otherwise, for the funeral, transportation, burial or other disposition of human remains and including, but not limited to, either of the following:

- (1) A suitable room for the storage of human remains.
- (2) A preparation room equipped with a sanitary flooring and necessary drainage and ventilation and containing necessary instruments and supplies for the preparation, sanitation, or embalming of human remains for burial or transportation.

(b) Licensed funeral establishments under common ownership or by contractual agreement within close geographical proximity of each other shall be deemed to be in compliance with the requirements of paragraph (1) or (2) of subdivision (a) if at least one of the establishments has a room described in those paragraphs.

(c) Except as provided in Section 7609, and except accredited mortuary science programs engaged in teaching students the art of embalming, no person shall operate or maintain or hold himself or herself out as operating or maintaining any of the facilities specified in paragraph (2) of subdivision (a), unless he or she is licensed as a funeral director.

(d) Nothing in this section shall be construed to require a funeral establishment to conduct its business or financial transactions at the same location as its preparation or storage of human remains.

(e) Nothing in this chapter shall be deemed to render unlawful the conduct of any ambulance service from the same premises as those on which a licensed funeral establishment is conducted, including the mainte-

nance in connection with the funeral establishment of garages for the ambulances and living quarters for ambulance drivers.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1939 ch 121 § 1; Stats 1945 ch 830 § 1; Stats 1974 ch 1512 § 3; Stats 1996 ch 1151 § 2 (AB 2877); Stats 1997 ch 475 § 11 (AB 1546); Stats 2009 ch 307 § 84 (SB 821), effective January 1, 2010, ch 308 § 86.5 (SB 819), effective January 1, 2010.

### **§ 7616.2. Employment of licensed funeral director by licensed funeral establishment**

A licensed funeral establishment shall at all times employ a licensed funeral director to manage, direct, or control its business or profession. Notwithstanding any other provisions of this chapter, licensed funeral establishments within close geographical proximity of each other, may request the bureau to allow a licensed funeral director to manage, direct, or control the business or profession of more than one facility.

**HISTORY:** Added Stats 1996 ch 1151 § 3 (AB 2877). Amended Stats 1998 ch 970 § 32 (AB 2802); Stats 2000 ch 568 § 103 (AB 2888).

### **§ 7617. Fixed place of business; Necessity of license**

The business of a licensed funeral establishment shall be conducted and engaged in at a fixed place or facility.

No person, partnership, association, corporation, or other organization shall open or maintain a place or establishment at which to engage in or conduct, or hold himself or herself or itself out as engaging in or conducting, the business of a funeral establishment without a license.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1996 ch 1151 § 4 (AB 2877).

### **§ 7617.1. Applicant requirements for funeral establishment license**

The applicant for a funeral establishment license, or in the case the applicant is an association, partnership, or corporation, all officers of the corporation or association or all general partners of the partnership shall be at least 18 years of age and shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

**HISTORY:** Added Stats 1996 ch 1151 § 4.5 (AB 2877). Amended Stats 2001 ch 305 § 1 (AB 408).

### **§ 7618. Application for funeral director's license**

An application for a funeral director's license shall be written on a form provided by the bureau, verified by the applicant, accompanied by the fee fixed by this chapter and filed at its Sacramento office.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1943 ch 992 § 1, effective June 2, 1943; Stats 1996 ch 1151 § 5 (AB 2877); Stats 1998 ch 970 § 33 (AB 2802); Stats 2000 ch 568 § 104 (AB 2888).

### **§ 7619. Age and character of applicant**

The applicant for a funeral director's license shall be at least 18 years of age, possess an associate of arts or science degree, or the equivalent, or a higher level of education as recognized by the Western Association of Colleges and Universities, or any other nationally recognized accrediting body of colleges and universities, and shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1939 ch 121 § 2; Stats 1951 ch 815 § 1; Stats 1971 ch 1748 § 19; Stats 1978 ch 1161 § 398; Stats 1996 ch 1151 § 6 (AB 2877).

### **§ 7619.3. Licensed establishment**

No licensed funeral director shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a funeral director without being employed by, or without being a sole proprietor of, a licensed funeral establishment.

**HISTORY:** Added Stats 1996 ch 1151 § 7.5 (AB 2877).

### **§ 7622. Examination for license; Subjects**

Before an individual is granted a funeral director's license, he or she shall successfully pass an examination upon the following subjects:

- (a) The signs of death.
- (b) The manner by which death may be determined.
- (c) The laws governing the preparation, burial and disposal of human remains, and the shipment of bodies dying from infectious or contagious diseases.

(d) Local health and sanitary ordinances and regulations relating to funeral directing and embalming.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1996 ch 1151 § 9 (AB 2877).

#### **§ 7622.2. License requirement**

A person shall not open or maintain a place or establishment at which to engage in or conduct, or hold himself, herself, or itself out as engaging in or conducting, the activities of a funeral director without a license.

**HISTORY:** Added Stats 1996 ch 1151 § 10 (AB 2877). Amended Stats 2015 ch 395 § 17 (AB 180), effective January 1, 2016.

#### **§ 7622.3. [Section repealed 1999.]**

**HISTORY:** Added Stats 1996 ch 1151 § 11 (AB 2877). Amended Stats 1998 ch 878 § 49 (SB 2239). Repealed Stats 1999 ch 241 § 1 (AB 1379). The repealed section related to continuing education.

#### **§ 7622.5. Payment of examination fee**

An applicant for examination under Section 7622 shall pay the funeral director's examination fee fixed by this chapter.

**HISTORY:** Added Stats 1967 ch 1338 § 1.

#### **§ 7623. Separate applications for separate locations**

If an applicant for a funeral establishment license proposes to engage in or conduct more than one funeral establishment, the applicant shall make a separate application and procure a separate license for each separate establishment.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 2001 ch 305 § 2 (AB 408).

#### **§ 7624. Several businesses in one establishment forbidden**

Not more than one person, partnership, association, corporation, or other organization engaged in business as a funeral establishment shall transact business in one specific funeral facility.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1996 ch 1151 § 12 (AB 2877).

#### **§ 7625. Investigation of applications; Findings**

Upon receipt of an application for a license, the bureau shall cause an investigation to be made of the physical status or plans and specifications of the proposed funeral establishment, and of the other qualifications required of the applicant under this chapter, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

The bureau shall grant a license if it finds that the proposed funeral establishment is or will be constructed and equipped as required by this chapter and that the applicant is qualified in all other respects as required by this chapter.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1953 ch 1033 § 1; Stats 1978 ch 1161 § 400; Stats 1998 ch 970 § 37 (AB 2802); Stats 2000 ch 568 § 107 (AB 2888).

#### **§ 7626. Qualifications**

The bureau shall examine and pass upon the qualifications of the applicant as to ability and experience before passing upon the physical status or plans and specifications of the proposed funeral establishment.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1939 ch 121 § 3; Stats 1953 ch 1033 § 2; Stats 1972 ch 783 § 1; Stats 1978 ch 1161 § 401; Stats 1998 ch 970 § 38 (AB 2802); Stats 2000 ch 568 § 108 (AB 2888).

#### **§ 7626.5. Hearing; Manner of conducting**

Where a hearing is held to determine whether an application for a license should be granted, the proceeding shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all of the powers granted therein.

**HISTORY:** Added Stats 1953 ch 1033 § 3. Amended Stats 1998 ch 970 § 39 (AB 2802); Stats 2000 ch 568 § 109 (AB 2888).

#### **§ 7627. Time for grant or refusal of license**

Every application for a funeral director's license under this article shall be granted or refused within ninety days from the date of the filing of the application or within thirty days after the close of the hearing upon the application, in case a hearing is held.

**HISTORY:** Added Stats 1939 ch 39 § 1.

**§ 7628. Change of place of business**

Any person, partnership, association, corporation, or other organization desiring to change the location of a licensed funeral establishment shall apply therefor on forms furnished by the bureau and shall include a fee fixed by this chapter.

The application shall be granted by the bureau upon the filing with the bureau of a favorable report from an inspector concerning the physical status or plans and specifications of the proposed licensed funeral establishment to the effect that it conforms to the requirements of this article.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1939 ch 121 § 4; Stats 1953 ch 1033 § 4; Stats 1961 ch 1821 § 73; Stats 1971 ch 716 § 129; Stats 1984 ch 47 § 68, effective March 21, 1984; Stats 1996 ch 1151 § 13 (AB 2877); Stats 1998 ch 970 § 40 (AB 2802); Stats 2000 ch 568 § 110 (AB 2888).

**§ 7629. Use of misleading name; Change of name on license**

No funeral establishment shall be conducted or held forth as being conducted or advertised as being conducted under any name which might tend to mislead the public or which would be sufficiently like the name of any other licensed funeral establishment so as to constitute an unfair method of competition.

Any funeral director desiring to change the name appearing on his or her license may do so by applying to the bureau and paying the fee fixed by this chapter.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended 1939 ch 121 § 5; Stats 1998 ch 970 § 41 (AB 2802); Stats 2000 ch 568 § 111 (AB 2888); Stats 2009 ch 308 § 87 (SB 819), effective January 1, 2010.

**§ 7630. Assignment of license; Submission of audit report; Bond requirement; False or misleading information**

(a) A funeral establishment's license may be assigned upon payment of the fee fixed by this chapter, the filing of a completed application, and upon submission of an audit report prepared and signed by an independent certified public accountant or public accountant currently licensed in this state. The audit report shall include an unqualified opinion on the accuracy of the trust fund balances and a report of compliance with the provisions of this article and Article 9 (commencing with Section 7735). Any shortages in the trust funds shall be funded.

(b)(1) If the applicant cannot submit the audit report required in subdivision (a) due to estate matters or litigation for which the director or his or her designee is a party, the applicant may request approval from the bureau to secure a bond by an admitted surety insurer guaranteeing the payment to each account of any shortages in the trust funds. Along with the fee and the application to assign the license and transfer ownership, any applicant requesting an exception to subdivision (a) shall submit to the bureau a report, signed by an authorized representative, setting forth the reasons requested for the exception to the audit requirement and a list of all trust accounts for the funeral establishment showing the corpus of the trust, accumulated income, and current account balances for each account. If the bureau approves the request to secure a bond, the bureau shall notify the applicant of the approval and of the requirements of this section.

(2) Any applicant who knowingly provides false or misleading information pursuant to the requirements of this subdivision shall be subject to an administrative citation, which may include an order of abatement and a fine in an amount not to exceed five thousand dollars (\$5,000) per violation, in addition to any other remedies that may be available to the bureau for violations of this chapter.

(3) Within 30 days from the date of the approval by the bureau, the applicant shall file satisfactory proof of the posting of a bond meeting the requirements of this section with the bureau. Once satisfactory proof of the bond is filed with the bureau and any other requirements for assignment have been met, the funeral establishment's license may be assigned.

(c) Any applicant that obtains approval from the bureau to post a bond shall obtain a bond that is in an amount equal to 50 percent greater than the corpus of the trust and otherwise meet the requirements of this chapter. Within one year from the date of acceptance of the surety bond by the bureau and prior to the expiration of the current bond, the funeral establishment shall file a new request with the bureau to post another bond and receive approval by the bureau consistent with the requirements set forth in subdivision (b). This requirement shall be met for each year in which the assignee fails to submit an audit report and fund any shortages as required in subdivision (a).

(d) The assignee shall comply with all provisions previously placed on the assignor. The assignee shall maintain the bond referred to in this section after assignment of the funeral establishment's license by the bureau.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1943 ch 992 § 2; Stats 1976 ch 961 § 1; Stats 1996 ch 1151 § 14 (AB 2877); Stats 2001 ch 305 § 3 (AB 408); Stats 2012 ch 364 § 1 (AB 374), effective January 1, 2013.

**§ 7631. Death of licensee; Temporary license to legal representative; Term; Extension**

In case of the death of a licensed funeral director who leaves a funeral establishment as part or all of the assets of his or her estate, the bureau may issue a temporary license to his or her legal representative, unless the legal representative has committed acts or crimes constituting grounds for denial of licensure under Section 480. A temporary establishment license is valid for six months from the date of issue. However, upon the petition of the estate's legal representative, the bureau, in its discretion, may grant a reasonable extension to allow for the assets of the estate to be distributed as circumstances warrant.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1939 ch 121 § 6; Stats 1978 ch 1161 § 402; Stats 1998 ch 970 § 42 (AB 2802); Stats 2000 ch 568 § 112 (AB 2888); Stats 2003 ch 874 § 22 (SB 363).

**§ 7632. By whom bodies may be embalmed**

A funeral director shall cause all human remains embalmed in or at the direction of his or her funeral establishment to be embalmed by a licensed embalmer, by an apprentice embalmer under the supervision of his or her licensed supervising embalmer, or by a student in a program accredited by the American Board of Funeral Service Education under the supervision of a licensed embalmer.

**HISTORY:** Added Stats 1943 ch 992 § 3, effective June 2, 1943. Amended Stats 1998 ch 970 § 43 (AB 2802); Stats 2003 ch 874 § 23 (SB 363); Stats 2004 ch 531 § 1 (AB 2004).

**§ 7633. Death certificate fees**

No funeral director shall charge a fee for filing a certificate of death or for providing copies thereof in excess of fees set by statute for filing and providing certified copies of such certificates.

**HISTORY:** Added Stats 1972 ch 557 § 1, operative April 1, 1973.

**§ 7634. Removal of tissue by embalmer for anatomical gift purposes**

Notwithstanding any other provision of law, a licensed embalmer, at the request of a licensed physician, may remove tissue from human remains for transplant, or therapeutic, or scientific purposes specified in, and pursuant to, the provisions of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code), if such embalmer has completed a course in tissue removal for transplant, or therapeutic, or scientific purposes approved by the Medical Board of California of the State of California.

**HISTORY:** Added Stats 1973 ch 767 § 1, effective September 25, 1973. Amended Stats 1978 ch 1161 (ch 1086 prevails), ch 1086 § 1; Stats 1989 ch 886 § 81; Stats 1998 ch 970 § 44 (AB 2802).

**§ 7635. Training program for employees or agents of funeral establishments**

(a) Any person employed by, or an agent of, a licensed funeral establishment, who consults with the family or representatives of a family of a deceased person for the purpose of arranging for services as set forth in subdivision (a) of Section 7615, shall receive documented training and instruction, at least once every three years, that results in a demonstrated knowledge of all applicable federal and state laws, rules, and regulations including those provisions dealing with vital statistics, the coroner, anatomical gifts, and other laws, rules, and regulations pertaining to the duties of a funeral director. A written outline of the training program, including documented evidence of the training time, place, and participants, shall be maintained in the funeral establishment and shall be available for inspection and comment by an inspector of the bureau.

(b) This section shall not apply to anyone who has successfully passed the funeral director's examination pursuant to Section 7622.

**HISTORY:** Added Stats 1996 ch 1151 § 15 (AB 2877). Amended Stats 1997 ch 475 § 12 (AB 1546); Stats 1998 ch 970 § 45 (AB 2802); Stats 2000 ch 568 § 113 (AB 2888); Stats 2017 ch 429 § 58 (SB 547), effective January 1, 2018.

**§ 7636. Requirement to notify funeral director of prior revocation, suspension, probation, or surrender of license or registration**

(a)(1) Any person who holds or has held, or was named on, any license or registration under the jurisdiction of the bureau that has been, within the immediately preceding 10 years, revoked, suspended, placed on probation, or surrendered under a stipulated decision, and who is employed by, or who seeks employment with, a licensed funeral establishment in any capacity, shall inform the managing funeral director of that revocation, suspension, probation, or surrender.



(2) A person subject to this subdivision shall inform the managing funeral director upon application for employment by completing a form that shall be made available by the bureau.

(b) A managing funeral director who is informed pursuant to subdivision (a) shall notify the bureau by submitting the form within 30 days of so being informed. Failure of the managing funeral director to notify the bureau shall be a cause for a warning. A managing funeral director shall not be subject to a warning if his or her failure to notify the bureau is due to a false statement made by an employee.

(c) Any person required to notify the managing funeral director under subdivision (a) who fails to do so or who makes a false statement on the required form shall be subject to disciplinary action if that person is a licensee of the bureau, or that failure or false statement shall be cause for denial of a license under Section 480.

(d) For purposes of subdivision (a), the term "named on" applies to a person who was an owner, partner, or corporate officer of an entity that was licensed or registered under the act at the time that entity's license or registration under the act was revoked, suspended, placed on probation, or surrendered.

**HISTORY:** Added Stats 2008 ch 490 § 1 (AB 1911), effective January 1, 2009.

## ARTICLE 2.5 CEMETERY BROKERAGE REGULATIONS

### Section

- 7637. Persons excluded
- 7637.1. License requirement
- 7637.2. Acts constituting being cemetery broker or salesperson
- 7637.3. Pleading and proving license in action for compensation
- 7637.4. Prohibited employment or compensation with respect to unlicensed persons; Discipline
- 7637.5. Paying unlicensed person for acts covered by article; Misdemeanor
- 7637.6. Acting without license; Misdemeanor
- 7637.7. Sale of cemetery property on promise of resale at profit; Misdemeanor
- 7637.8. Dissemination of known false statement; Misdemeanor
- 7637.9. Required statement in advertising
- 7637.10. Discipline for violation of advertising statement requirement
- 7638. Advertising without license or certificate; Misdemeanor

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

### § 7637. Persons excluded

This article does not apply to the following cases or to the following persons:

- (a) A person acting with reference to an occasional sale of his or her own property.
- (b) The regular officers of a cemetery corporation holding a certificate of authority acting with reference to the corporation's property when they receive no special compensation therefor.
- (c) Persons making an occasional sale under a duly executed power of attorney from others.
- (d) The services rendered by an attorney at law in performing his or her duties in that capacity.
- (e) A receiver, trustee in bankruptcy, any person acting under orders of any court, or a trustee selling under a deed of trust.
- (f) A real estate broker or real estate salesperson, acting in that capacity in connection with the sale, lease, or exchange of real property, or interest therein, when the transfer of cemetery property is purely incidental to the sale, lease, or exchange of real property.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

### § 7637.1. License requirement

A person shall not engage in the business of, act in the capacity of, or advertise or assume to act as, a cemetery broker or cemetery salesperson in this state without first obtaining a license from the bureau.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

### § 7637.2. Acts constituting being cemetery broker or salesperson

Any act other than an occasional sale of buying or selling, leasing, or exchanging cemetery property or interment services of or for another or on his or her own account, or offering for another or for his or her own account to buy or sell, lease, or exchange cemetery property or interment services, or negotiating the purchase or sale, lease, or exchange of cemetery property or interment services, or negotiating the purchase or sale, lease, or exchange, or listing or soliciting, or negotiating a loan on or leasing of cemetery property or interment services constitutes the person making such offer, sale or purchase, lease, or exchange, or negotiating the loan, or listing or soliciting, a cemetery broker or cemetery salesperson.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

**§ 7637.3. Pleading and proving license in action for compensation**

A person engaged in the business or acting in the capacity of a cemetery broker or a cemetery salesperson within this state shall not bring or maintain any action in the courts of this state for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he or she was a duly licensed cemetery broker or cemetery salesperson at the time the alleged cause of action arose.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

**§ 7637.4. Prohibited employment or compensation with respect to unlicensed persons; Discipline**

(a) A cemetery broker shall not employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this article who is not a licensed cemetery broker, or a cemetery salesperson licensed under the cemetery broker employing or compensating him or her. A cemetery salesperson shall not be employed by or accept compensation from any person other than the cemetery broker under whom he or she is at the time licensed.

(b) A salesperson shall not pay any compensation for performing any of the acts within the scope of this article to any licensee except through the cemetery broker under whom he or she is at the time licensed.

(c) For a violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

**§ 7637.5. Paying unlicensed person for acts covered by article; Misdemeanor**

(a) It is a misdemeanor, punishable by a fine not exceeding one hundred dollars (\$100) for each offense, for any person, whether obligor, escrowholder, or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this article who is not known to be or who does not present evidence to such payer that he or she is a licensed cemetery broker at the time compensation is earned.

(b) For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

**§ 7637.6. Acting without license; Misdemeanor**

Any person acting as a cemetery broker or cemetery salesperson without a license, or who advertises so as to indicate he or she is a cemetery broker without being so licensed, is guilty of a misdemeanor. If that person is a corporation, it shall be punished by a fine not to exceed five thousand dollars (\$5,000).

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

**§ 7637.7. Sale of cemetery property on promise of resale at profit; Misdemeanor**

(a) Any cemetery salesperson or cemetery broker who sells, causes to be sold, or offers for sale any cemetery property upon the promise, guarantee, or representation to the purchaser that the same may be resold or repurchased at a financial profit is guilty of a misdemeanor.

(b) For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery salesperson or cemetery broker in accordance with the provisions of this act relating to disciplinary proceedings.

(c) No violation of any of the provisions of this section by any cemetery salesperson or employee of any licensed cemetery broker shall cause the suspension or revocation of the license of the employer of the salesperson or employee unless it appears upon a hearing by the bureau that the employer had guilty knowledge of the violation.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

**§ 7637.8. Dissemination of known false statement; Misdemeanor**

Every officer, agent, or employee of any company, and every other person who knowingly authorizes, directs, or aids in the publication, advertisement, distribution, or circulation of any false statement or representation concerning any cemetery or cemetery brokerage business and every person who, with knowledge that

any advertisement, pamphlet, prospectus, or letter concerning any cemetery brokerage business or any written statement that is false or fraudulent, issues, circulates, publishes, or distributes the same, or causes it to be issued, circulated, published, or distributed, or who in any other respect willfully violates or fails, omits, or neglects to obey, observe, or comply with any order, permit, decision, demand, or requirement of the bureau under the provisions of this act relating to cemetery brokerage, is guilty of a misdemeanor, and, if a cemetery licensee, he or she shall be held to trial by the bureau for a suspension or revocation of his or her cemetery license, as provided in the provisions of this act relating to disciplinary proceedings.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

#### **§ 7637.9. Required statement in advertising**

Each cemetery broker, other than a cemetery corporation holding a certificate of authority, and each cemetery salesperson shall include in any advertising a statement that he or she is acting as a cemetery broker or cemetery salesperson.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

#### **§ 7637.10. Discipline for violation of advertising statement requirement**

For violation of any of the provisions of Section 7637.9, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

#### **§ 7638. Advertising without license or certificate; Misdemeanor**

Any person, other than a person making an occasional sale, who advertises cemetery property for sale or exchange, without being duly licensed as a cemetery broker or a cemetery salesperson, or without possessing a certificate of authority as a cemetery corporation, is guilty of a misdemeanor. If such person is a corporation, it shall be punished by a fine of not to exceed five thousand dollars (\$5,000).

**HISTORY:** Added Stats 2015 ch 395 § 18 (AB 180), effective January 1, 2016.

### **ARTICLE 2.7 HYDROLYSIS FACILITIES**

#### Section

7639. Facility license required

7639.02. Transfer of ownership

7639.04. Application for license

7639.06. Compliance with applicable rules, laws, and regulations

7639.08. Standards for hydrolysis facility licenses; Application and fee for hydrolysis chamber approval

7639.10. Requirements to conduct hydrolysis

7639.12. Family viewing of hydrolysis process

7639.16. Hydrolyzing human remains or disposing of hydrolyzed human remains without license as misdemeanor

7639.18. Discipline

7639.19. Operative date of article

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7639. Facility license required**

A corporation, partnership, or natural person may operate, establish, or maintain a hydrolysis facility with a valid hydrolysis facility license issued by the bureau.

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7639.02. Transfer of ownership**

A change in the ownership of a hydrolysis facility shall be reported to the bureau. A transfer in a single transaction or related transactions of more than 50 percent of the equitable interest in a licensed hydrolysis facility shall constitute a change of ownership. When a change in ownership in a licensed hydrolysis facility occurs, the existing hydrolysis facility license shall lapse and the new owner shall obtain a license from the bureau as otherwise provided in this act. The bureau shall not require an applicant under this section to obtain any new permit or license from any other governmental agency when the existing permit or license is valid.

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7639.04. Application for license**

The application for a hydrolysis facility license shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the fees.

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7639.06. Compliance with applicable rules, laws, and regulations**

(a) The bureau shall require an applicant for a hydrolysis facility license to prove compliance with all applicable laws, rules, regulations, ordinances, and orders, and shall not issue a hydrolysis facility license until the bureau is satisfied that the public interest, human health, and environmental quality will be served by the applicant.

(b) The applicant for a hydrolysis facility license shall present to the bureau any state or locally required permits for business operations, including, but not limited to, any permits required by the following, to the extent applicable:

(1) The local public health department.

(2) The city, county, special district, joint powers authority, or other public agency that provides wastewater treatment services where the licensed hydrolysis facility is to be located.

(3) The Department of Toxic Substances Control for the creation, collection, treatment, or transport of hazardous waste.

(4) Any other state or locally required permit.

(c) The applicant for a hydrolysis facility license shall prove to the bureau that it has the appropriate permits and contracts for the disposal of hydrolysate and which of the following models the facility will be using for the disposal:

(1) Discharge to the sewer collection system.

(2) Containment, collection, and transport to an appropriate treatment facility.

(d) When applying to renew a hydrolysis facility license, an applicant shall present to the bureau records of annual maintenance of the hydrolysis chamber.

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7639.08. Standards for hydrolysis facility licenses; Application and fee for hydrolysis chamber approval**

(a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards for applicants for hydrolysis facility licenses. In reviewing an application for a hydrolysis facility license, the bureau may consider acts of the applicant, including acts of the incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a hydrolysis facility license pursuant to Division 1.5 (commencing with Section 475).

(b) Hydrolysis chamber manufacturers may apply to the State Department of Public Health for approval of a hydrolysis chamber upon finding that the hydrolysis chamber causes the destruction of pathogenic microorganisms pursuant to paragraph (3) of subdivision (a) of Section 118215 of the Health and Safety Code.

(c) In its approval, the State Department of Public Health shall specify the minimum parameters of pH, time, temperature, and pressure that shall be used by each hydrolysis chamber to destroy all pathogenic microorganisms. The department may use the guidance of the hydrolysis chamber operations and maintenance manual and biologic indicator spore testing to determine this, among other factors.

(d) The hydrolysis chamber manufacturer shall pay to the State Department of Public Health, the application and evaluation fee as outlined in Section 118245 of the Health and Safety Code.

(e) Every five years, licensed hydrolysis facilities that discharge hydrolysate to a sewer collection system shall submit to the Department of Public Health the results of biological indicator spore testing as well as the last 30 days of archived electronic hydrolysis chamber data that includes the pH, time, temperature, and pressure at which the chamber was operated. Based upon this information, the department shall evaluate whether the chamber continues to destroy pathogens. The licensee shall include this evaluation in its application to renew its license. If the chamber is determined not to destroy pathogens, the bureau shall not renew its license until this has been remedied. The department may charge a fee sufficient to cover the actual hourly costs of staff conducting its five year review of the alternative technology.

(f) Once a hydrolysis chamber has been approved pursuant to subdivision (b), it may be employed by a licensed hydrolysis facility for the final disposition of human remains.

(g) The bureau shall grant hydrolysis facility licenses only to applicants that will employ a hydrolysis chamber approved by the State Department of Public Health pursuant to subdivision (b).

(h) A hydrolysis facility shall ensure or conduct annual maintenance of the hydrolysis chamber.



(i) The bureau shall not renew a hydrolysis facility license without proof of annual maintenance of the hydrolysis chamber.

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2018 ch 92 § 10 (SB 1289), effective January 1, 2019, operative July 1, 2020.

#### **§ 7639.10. Requirements to conduct hydrolysis**

(a) A licensed hydrolysis facility shall not conduct hydrolysis unless all of the following requirements are met:

(1) The licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition of the remains, in which the person or persons entitled to custody of the remains agree to pay the licensee's regular fee for hydrolysis, disposition, and other services rendered, and any other contractual provisions required by the bureau.

(2) Hydrolysis of remains occurs not more than 24 hours after delivery of the remains to the licensee unless the remains have been preserved in the interim by refrigeration or embalming.

(3) The licensee has a contractual relationship with a licensed cemetery authority for final disposition of hydrolyzed human remains by burial, entombment, or inurnment of any and all remains that are not lawfully disposed of or that are not called for or accepted by the person or persons entitled to the custody and control of the disposition of those remains within 90 days of date of death.

(4) The licensee contains and collects all hydrolysate. Hydrolysate shall not be disposed of using a sewer collection system, except as prescribed in paragraph (8).

(5) The licensee ensures that any hydrolysate is transported by a state-licensed biomaterials handler to a publicly owned wastewater treatment plant or licensed industrial anaerobic digestion facility or waste-to-energy or biomass facility for the beneficial use or disposal of that hydrolysate, unless disposing of hydrolysate using a sewer collection system as prescribed in paragraph (8).

(6) Acceptance of hydrolysate from a licensed hydrolysis facility and a state-licensed biomaterials handler shall be voluntary and at the discretion of each individual facility described in paragraph (5).

(7) Acceptance of hydrolysate by a licensed industrial anaerobic digestion, waste-to-energy, or biomass facility, if the facility has an industrial process sewer connection to a sewer collection system, shall only be allowed with the consent of the publicly owned treatment works to which the sewer collection system is tributary.

(8) A licensed hydrolysis facility may dispose of hydrolysate using a sewer collection system only if all of the following conditions are met:

(A) The city, county, special district, joint powers authority, or other public agency that provides wastewater treatment and disposal services to the licensed hydrolysis facility expressly authorizes the disposal of hydrolysate into the sewer collection system. If issuance of a permit is required by another city, county, special district, joint powers authority, or other public agency that provides sewer collection services where the licensee is located, authorization from both agencies must be obtained.

(B) If the licensee receives the appropriate permissions required by subparagraph (A), the licensee shall comply with all local ordinances, pretreatment requirements, permitting requirements, waste discharge requirements, and all other applicable federal, state, and local laws, ordinances, and regulations governing the protection of water quality and public health, promotion of water recycling, and discharge into the sewer system.

(C) The licensee shall demonstrate compliance as deemed appropriate by the public agency or agencies authorizing the disposal of hydrolysate into the sewer collection system. At a minimum this should include annual water quality testing as prescribed by the public agency or agencies authorizing the disposal of hydrolysate into the sewer collection system.

(D) Authorization for disposal of hydrolysate using a sewer collection system shall be voluntary and at the discretion of each public agency described in subparagraph (A). Each public agency described in subparagraph (A) has the discretion to authorize or to prohibit the discharge of hydrolysate into a sewer collection system for any reason, including for purposes of promoting advanced water recycling systems.

(b) Existing alkaline hydrolysis facilities utilized by medical schools for the purpose of anatomical gifting shall not be subject to paragraphs (1) to (3), inclusive, of subdivision (a), and shall continue to be regulated under the guidelines of the state's anatomical gifting regulations.

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7639.12. Family viewing of hydrolysis process**

A licensed hydrolysis facility shall not prohibit relatives or the responsible party from viewing the hydrolysis process.

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.



### **§ 7639.16. Hydrolyzing human remains or disposing of hydrolyzed human remains without license as misdemeanor**

It is a misdemeanor for any person, firm, or corporation to hydrolyze human remains, or to engage in the disposition of hydrolyzed human remains, without a valid, unexpired hydrolysis facility license. Each hydrolysis carried out in violation of this section is a separate violation.

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.

### **§ 7639.18. Discipline**

A licensed hydrolysis facility shall be subject to, and shall be disciplined by the bureau in accordance with, Article 6 (commencing with Section 7686).

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.

### **§ 7639.19. Operative date of article**

This article shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 4 (AB 967), effective January 1, 2018, operative July 1, 2020.

## **ARTICLE 3 EMBALMERS**

#### Section

7640.	Embalmer
7641.	License requirement; Exemptions
7642.	License application
7643.	Qualifications of applicant
7646.	Examination for license
7647.	Notice of examination
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### **§ 7640. Embalmer**

An embalmer is one who is duly qualified to disinfect or preserve human remains by the injection or external application of antiseptics, disinfectants or preservative fluids; to prepare human bodies for transportation which are dead of contagious or infectious diseases; and to use derma surgery or plastic art for restoring mutilated features; and who is duly licensed as an embalmer under the laws of the State of California.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1943 ch 992 § 4; Stats 1955 ch 601 § 1; Stats 1998 ch 970 § 46 (AB 2802).

### **§ 7641. License requirement; Exemptions**

It is unlawful for any person to embalm a body, or engage in, or hold himself or herself out as engaged in practice as an embalmer, unless he or she is licensed by the bureau. However, this section shall have no effect on students and instructors of embalming in mortuary science programs approved by the bureau.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1939 ch 121 § 7; Stats 1943 ch 992 § 5, effective June 2, 1943; Stats 1951 ch 815 § 2; Stats 1996 ch 1151 § 16 (AB 2877); Stats 1998 ch 970 § 47 (AB 2802); Stats 2000 ch 568 § 114 (AB 2888); Stats 2009 ch 307 § 85 (SB 821), effective January 1, 2010.

### **§ 7642. License application**

An application for an embalmer's license shall be written on a form provided by the bureau, verified by the applicant, and accompanied by the fee fixed by this chapter.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1978 ch 1161 § 404; Stats 1998 ch 970 § 48 (AB 2802); Stats 2000 ch 568 § 115 (AB 2888).

### **§ 7643. Qualifications of applicant**

In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

- (a) Be over 18 years of age.
- (b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (c) Have completed at least two years of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this state in a funeral establishment which shall have been approved for ap-

prentices by the bureau and while so apprenticed shall have assisted in embalming not fewer than 100 human remains; provided, however, that a person who has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and whose license has never been suspended or revoked for unethical conduct shall not be required to serve any apprenticeship in this state.

(d) Have graduated from a mortuary science program approved by the bureau and accredited by the American Board of Funeral Service Education, or its equivalent, as determined by the bureau, and furnished official transcripts from that program or equivalent.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1941 ch 812 § 1; Stats 1943 ch 992 § 6, effective June 2, 1943; Stats 1947 ch 1079 § 1; Stats 1969 ch 284 § 1; Stats 1971 ch 1748 § 20; Stats 1978 ch 1161 § 405; Stats 1996 ch 1151 § 17 (AB 2877); Stats 1998 ch 970 § 49 (AB 2802); Stats 2000 ch 568 § 116 (AB 2888); Stats 2009 ch 307 § 86 (SB 821), effective January 1, 2010.

## **§ 7646. Examination for license**

(a) The bureau shall require the applicant to pass both of the following:

(1) The sciences section of the national examination administered by the International Conference of Funeral Service Examining Boards, or its equivalent, as determined by the bureau.

(2) An examination, administered by the bureau, on the state's laws and the rules and regulations of the bureau, including those sections of the Health and Safety Code which pertain to the funeral industry.

(b) An applicant who has previously passed the sciences section of the national examination described in paragraph (1) of subdivision (a) shall be deemed to be in compliance with that paragraph.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1947 ch 1079 § 2; Stats 1998 ch 970 § 50 (AB 2802); Stats 2000 ch 568 § 117 (AB 2888); Stats 2009 ch 307 § 87 (SB 821), effective January 1, 2010; Stats 2019 ch 375 § 5 (SB 606), effective January 1, 2020.

## **§ 7647. Notice of examination**

Examinations shall be administered at times and places determined by the bureau and the International Conference of Funeral Service Examining Boards.

The bureau shall give notice of the time and place of the examination described in paragraph (2) of subdivision (a) of Section 7646.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1943 ch 992 § 7, effective June 2, 1943; Stats 1998 ch 970 § 51 (AB 2802); Stats 2000 ch 568 § 118 (AB 2888); Stats 2009 ch 307 § 88 (SB 821), effective January 1, 2010.

## **§ 7647.5. Hearing; Manner of conducting**

Where a hearing is held to determine whether an application for a license should be granted, the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all of the powers granted therein.

**HISTORY:** Added Stats 1953 ch 1033 § 5. Amended Stats 1998 ch 970 § 52 (AB 2802); Stats 2000 ch 568 § 119 (AB 2888).

## **§ 7648. Nonassignability of license**

No embalmer's license is assignable, and only the licensee may engage in the practice of embalming under the license.

**HISTORY:** Added Stats 1939 ch 39 § 1.

## **§ 7649. Licensee's signature required on certificates**

Except as provided in Section 102805 of the Health and Safety Code, whenever the name of any licensed embalmer is subscribed to any certificate, the purport of which is that he or she has performed any act mentioned in the certificate, the licensed embalmer shall actually sign his or her name thereto.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1953 ch 1033 § 6; Stats 1996 ch 1023 § 20 (SB 1497), effective September 29, 1996 (ch 1151 prevails effective January 1, 1997), ch 1151 § 21 (AB 2877); Stats 2003 ch 874 § 24 (SB 363).

## **§ 7650. Examination of other states' requirements**

The bureau may examine the requirements for the issuance of licenses to embalmers in other states of the United States and cause a record to be kept of those states in which standards are maintained for embalmers, not lower than those provided in this chapter.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1998 ch 970 § 53 (AB 2802); Stats 2000 ch 568 § 120 (AB 2888); Stats 2019 ch 375 § 6 (SB 606), effective January 1, 2020.

**ARTICLE 3.5 LICENSES AND CERTIFICATES OF AUTHORITY**

## Section

- 7651. Broker's license application; Fee
- 7651.1. Residency requirement for original broker's license
- 7651.2. Qualifications for original broker's license
- 7651.3. Salesperson's license application
- 7651.4. Applicability of examination requirement to cemetery salesperson's license
- 7651.5. Investigation of applicant; Criteria for issuance of license
- 7651.6. Bond of broker not having certificate of authority
- 7651.7. Examination of license applicant
- 7651.8. Waiver of examination
- 7651.9. License renewal
- 7651.10. Personal license authority
- 7652. Additional licenses of officers and members of business organizations
- 7652.1. License authority of organization's officers and members
- 7652.2. Display of license; Possession of salesperson's license
- 7652.3. Cancellation of salesperson's license on withdrawal from employment; Reinstatement
- 7652.4. Place of business; Notice of change
- 7652.5. Branch office licenses
- 7652.6. Broker's sign
- 7652.7. Suspension or revocation for violation
- 7652.8. Application for certificate of authority; Fee
- 7652.9. Cemetery manager; Qualifications
- 7652.10. Proof of applicant's compliance
- 7653. Standards for applicants; Investigation; Application fee
- 7653.1. Interments in noncertificated cemeteries
- 7653.2. Authority of bureau to inspect books, records and premises of crematories
- 7653.3. Annual unannounced inspection of crematory
- 7653.35. Inspection of records and facility [Repealed effective January 1, 2027]
- 7653.35. Inspection of records and facility [Operative January 1, 2027]
- 7653.36. Unannounced inspection [Repealed effective January 1, 2027]
- 7653.36. Unannounced inspection [Operative January 1, 2027]
- 7653.4. Inspection of cemetery books, records, and premises
- 7653.5. Annual unannounced inspection of cemetery
- 7653.6. Employment of licensed cemetery manager required
- 7653.7. Application for cemetery manager license; Qualifications; Examination
- 7653.8. Cemetery manager must hold valid and unexpired cemetery manager license; Employed by or being a corporate officer of a licensed cemetery
- 7653.9. Temporary manager; Powers; Term; Compensation

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

**§ 7651. Broker's license application; Fee**

Application for license as a cemetery broker shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the original cemetery broker's license fee.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

**§ 7651.1. Residency requirement for original broker's license**

The bureau shall not grant an original cemetery broker's license to any person who is not a resident of this state. Change of residence to another state shall terminate the license.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

**§ 7651.2. Qualifications for original broker's license**

The bureau shall not grant an original cemetery broker's license to any person who has not held a cemetery salesperson's license for at least two years prior to the date of his or her application for the broker's license, and during that time was not actively engaged in the business of a cemetery salesperson except that if an applicant for a cemetery broker's license having at least the equivalent of two years' general cemetery experience files a written petition with the bureau setting forth his or her qualifications and experience and the bureau approves, he or she may be issued a cemetery broker's license immediately upon passing the appropriate examinations and satisfying the other requirements of this article.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

**§ 7651.3. Salesperson's license application**

Application for license as a cemetery salesperson shall be made in writing on the form prescribed by the

bureau and filed at the principal office of the bureau. The application shall be signed by the applicant, and shall be accompanied by the cemetery salesperson's license fee.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7651.4. Applicability of examination requirement to cemetery salesperson's license**

Notwithstanding any other provision of this chapter, Section 7651.7 does not apply to an applicant for a cemetery salesperson's license.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7651.5. Investigation of applicant; Criteria for issuance of license**

The bureau shall investigate the qualifications of the applicants. Except as otherwise prescribed in this article, it may issue the license applied for to an applicant on a showing satisfactory to it that the following facts exist:

- (a) The applicant is properly qualified to perform the duties of a cemetery broker or salesperson.
- (b) Granting the license will not be against public interest.
- (c) The applicant intends actively and in good faith to carry on the business of a cemetery broker or a cemetery salesperson.
- (d) In the case of a corporate applicant, the articles of incorporation permit it to act as a cemetery broker.
- (e) In the case of an association or copartnership applying for such a license, its articles of association or agreement of partnership authorize it to act as a cemetery broker.
- (f) The license is not being secured for the purpose of permitting the applicant to advertise as a cemetery broker or salesperson without actually engaging in such business.
- (g) The applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7651.6. Bond of broker not having certificate of authority**

All cemetery brokers who do not possess a certificate of authority shall, in addition to the requirements of this chapter, file with the bureau a satisfactory bond to the people of the State of California, duly executed by a sufficient surety or sureties to be approved by the bureau, in the amount of ten thousand dollars (\$10,000). That bond shall be conditioned for the honest and faithful performance by such broker and his or her salespersons and employees of any undertaking as a licensed cemetery broker or salesperson or employee of said broker at any time when licensed under this chapter, and the strict compliance with the provisions of this chapter and of Division 8 (commencing with Section 8100) of the Health and Safety Code, relating to cemeteries, and the honest and faithful application of all funds received. That bond shall be further conditioned upon the payment of all damages suffered by any person damaged or defrauded by reason of the violation of any of the provisions of this chapter or of Division 8 (commencing with Section 8100) of the Health and Safety Code relating to cemeteries, or by reason of the violation of the obligation of such broker as an agent, as such obligations are laid down by the Civil Code, or by reason of any fraud connected with or growing out of any transactions contemplated by this chapter or Division 8 (commencing with Section 8100) of the Health and Safety Code.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7651.7. Examination of license applicant**

The bureau shall ascertain by written examination that the applicant, and, in case of a copartnership or corporation applicant for a cemetery broker's license, that each officer, agent, or member thereof through whom it proposes to act as a cemetery licensee has:

- (a) Appropriate knowledge of the English language, including reading, writing, and spelling, and of elementary arithmetic.
- (b) A fair understanding of:
  - (1) Cemetery associations, cemetery corporations, and duties of directors.
  - (2) Plot ownership, deeds, certificates of ownership, contracts of sale, liens, and leases.
  - (3) Establishing, dedicating, maintaining, managing, operating, improving, and conducting a cemetery.
  - (4) The care, preservation, and embellishment of cemetery property.
  - (5) The care and preservation of endowment care funds, trust funds, and the investment thereof.
- (c) A general and fair understanding of the obligations between principal and agent, of the principles of

cemetery brokerage practice and the business ethics pertaining thereto, as well as of the provisions of this act relating to cemetery brokerage.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7651.8. Waiver of examination**

The bureau may, in its discretion, waive the examination of any applicant for a cemetery broker's license who held an unrevoked or unsuspended cemetery license on June 30 of the preceding fiscal year as an individual broker, an officer of a corporation, or member of a copartnership.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7651.9. License renewal**

An application on the form prescribed by the bureau for the renewal of any unrevoked and unsuspended license filed before midnight of June 30 of the year for which such unrevoked and unsuspended license was issued, accompanied by the applicable renewal fee, entitles the applicant to continue operating under his or her existing license after its usual expiration date, if not previously suspended or revoked, and until such date as he or she is notified in writing that the application has been granted or denied.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7651.10. Personal license authority**

A cemetery license does not give authority to do any act specified in this act to any person other than the person to whom the license is issued.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652. Additional licenses of officers and members of business organizations**

When a cemetery brokerage license is issued to a cemetery brokerage corporation, if it desires any of its officers other than the officer through whom it is already licensed to act under its license as a cemetery broker, it shall procure an additional license for each such officer. When a cemetery brokerage license is granted to cemetery brokerage copartnership, if it desires any of its members other than the one through whom it is already licensed to act as a cemetery broker, it shall procure an additional license for each such member.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.1. License authority of organization's officers and members**

Each officer of a corporation through whom it is licensed to act as a cemetery broker, and each member of a copartnership through whom it is licensed to act as a cemetery broker, is, while so employed under such license, a licensed cemetery broker, but licensed only to act as such for and on behalf of the corporation or the copartnership, as officer or member, respectively.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.2. Display of license; Possession of salesperson's license**

The cemetery licenses of both broker and salesperson shall be prominently displayed in the office of the broker. The cemetery salesperson's license shall remain in the possession of the licensed cemetery broker employer until canceled or until the salesperson leaves the employ of the broker.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.3. Cancellation of salesperson's license on withdrawal from employment; Reinstatement**

Immediately upon the salesperson's withdrawal from the employ of the broker, the broker shall return the salesperson's license to the bureau for cancellation. A license canceled but not suspended or revoked may be reinstated within the fiscal year upon receipt of application therefor and the fee for the reinstatement of the license.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.4. Place of business; Notice of change**

(a) Every licensed cemetery broker shall have and maintain a definite place of business in this state which shall serve as his or her office for the transaction of business.

(b) No cemetery license authorizes the licensee to do business except from the location for which the cemetery license was issued.



(c) Notice in writing shall be given the bureau of change of business location of a cemetery broker, whereupon the bureau shall issue a new cemetery license for the unexpired period. The change or abandonment of business location without notification to the bureau shall automatically cancel the license theretofore issued.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.5. Branch office licenses**

(a) If the applicant for a cemetery broker's license maintains more than one place of business within the state, he or she shall apply for and procure an additional license for each branch office so maintained. Every such application shall state the name of the person and the location of the place of business for which such license is desired.

(b) The bureau may determine whether or not a broker is doing a cemetery brokerage business at or from any particular location which requires him or her to have a branch office license.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.6. Broker's sign**

Each cemetery broker shall erect and maintain a sign in a conspicuous place on the premises to indicate that he or she is a licensed cemetery broker and his or her name shall be clearly shown thereon. The size and place of the sign shall conform to regulations that may be adopted by the bureau.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.7. Suspension or revocation for violation**

For a violation of any of the provisions of Sections 7652.2, 7652.3, 7652.4, and 7652.6, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.8. Application for certificate of authority; Fee**

Application for a certificate of authority shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the fee provided for in this act and shall show that the cemetery authority owns or is actively operating a cemetery in this state which is subject to the provisions of the act or that the applicant is in a position to commence operating a cemetery.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.9. Cemetery manager; Qualifications**

Each cemetery for which a certificate of authority is required shall be operated under the supervision of a manager who is qualified in accordance with the regulations adopted by the bureau. Each cemetery manager shall be required to successfully pass a written examination evidencing an understanding of the applicable provisions of this code and of the Health and Safety Code. A person shall not engage in the business of, act in the capacity of, or advertise or assume to act as, a cemetery manager without first obtaining a license from the bureau.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7652.10. Proof of applicant's compliance**

The bureau may require such proof as it deems advisable concerning the compliance by such applicant to all the laws, rules, regulations, ordinances and orders applicable.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7653. Standards for applicants; Investigation; Application fee**

(a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge and experience and financial responsibility for applicants for certificates of authority. In reviewing an application for a certificate of authority, the bureau may consider acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a certificate of authority under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a certificate of authority, the bureau may cause an investigation to be made of the physical status, plans, specifications, and financing of the proposed cemetery, and any other qualifications required of the applicant under this act, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

(c) At the time of the filing of the application required by this section, the applicant shall pay to the Cemetery and Funeral Fund the sum of seven hundred fifty dollars (\$750) to defray the expenses of investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall, within five days after request, deposit an additional sum sufficient to defray those expenses, provided that the total sum shall not exceed nine hundred dollars (\$900).

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016, operative July 1, 2016. Amended Stats 2022 ch 625 § 44 (SB 1443), effective January 1, 2023.

### **§ 7653.1. Interments in noncertificated cemeteries**

(a) The bureau may, in accordance with its rules and regulations, authorize interments in cemeteries for which there is no currently valid certificate of authority outstanding if the bureau finds that rights to interment therein will otherwise be impaired. However, nothing in this section authorizes sales of lots, vaults, or niches by cemeteries for which there is no currently valid certificate of authority. Interments permitted under this section shall be conducted by persons authorized by the bureau in accordance with its regulations, and Section 7731.2 shall not be applicable to such interments.

(b) The bureau or its representative shall be entitled to inspect and copy any cemetery records necessary to the performance of interments under this section, and any person having custody of those records shall permit inspection and copying thereof for that purpose. The bureau may apply to the superior court for the county in which the cemetery is located for an order temporarily transferring custody of cemetery records to it for purposes of this section.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

### **§ 7653.2. Authority of bureau to inspect books, records and premises of crematories**

The bureau shall inspect the books, records, and premises of any crematory licensed under this chapter. In making those inspections, the bureau shall have access to all books and records, the crematory building, the cremation chambers or furnaces, and the storage areas for human remains before and after cremation, during regular office hours or the hours the crematory is in operation. No prior notification of the inspection is required to be given to the crematory licensee. If any crematory licensee fails to allow that inspection or any part thereof, it shall be grounds for the suspension or revocation of a license or other disciplinary action against the licensee. All proceedings under this section shall be conducted in accordance with the provisions of this chapter relating to disciplinary proceedings.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

### **§ 7653.3. Annual unannounced inspection of crematory**

The bureau shall annually conduct a minimum of one unannounced inspection of each licensed crematory.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

### **§ 7653.35. Inspection of records and facility [Repealed effective January 1, 2027]**

(a) The bureau shall inspect the books, records, and premises of a hydrolysis facility licensed under this chapter. In making those inspections, the bureau shall have access to all books and records, the hydrolysis facility, the hydrolysis chamber, and the storage areas for human remains before and after hydrolysis, during regular office hours or the hours the hydrolysis facility is in operation. Prior notification of the inspection is not required to be given to the hydrolysis facility licensee. If a hydrolysis facility licensee fails to allow that inspection or any part thereof, it shall be grounds for the suspension or revocation of a license or other disciplinary action against the licensee. All proceedings under this section shall be conducted in accordance with the provisions of this chapter relating to disciplinary proceedings.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 5 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 5 (AB 351), effective January 1, 2023, repealed January 1, 2027.

### **§ 7653.35. Inspection of records and facility [Operative January 1, 2027]**

(a) The bureau shall inspect the books, records, and premises of a reduction facility or a hydrolysis facility licensed under this chapter. In making those inspections, the bureau shall have access to all books and re-

cords, the hydrolysis or reduction facility, the hydrolysis chamber or reduction chamber, and the storage areas for human remains before and after reduction or hydrolysis, during regular office hours or the hours the facility is in operation. Prior notification of the inspection is not required to be given to the licensee. If a licensee fails to allow inspection or any part thereof, it shall be grounds for the suspension or revocation of a license or other disciplinary action against the licensee. All proceedings under this section shall be conducted in accordance with the provisions of this chapter relating to disciplinary proceedings.

(b) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 6 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 7653.36. Unannounced inspection [Repealed effective January 1, 2027]**

(a) The bureau shall annually conduct a minimum of one unannounced inspection of each licensed hydrolysis facility.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 6 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 7 (AB 351), effective January 1, 2023, repealed January 1, 2027.

#### **§ 7653.36. Unannounced inspection [Operative January 1, 2027]**

(a) The bureau shall annually conduct a minimum of one unannounced inspection of each reduction facility and each licensed hydrolysis facility.

(b) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 8 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 7653.4. Inspection of cemetery books, records, and premises**

The bureau shall inspect the books, records, and premises of any cemetery where a certificate of authority is required under this chapter. In making the inspections, the bureau shall have access to all books and records, buildings, mausoleums, columbariums, storage areas, including storage areas for human remains, during regular office hours or the hours the cemetery is in operation. No prior notification of the inspection is required to be given to the holder of the certificate of authority. If any certificate holder fails to allow the inspection or any part thereof, disciplinary action, including, but not limited to, revocation or suspension may be taken against the certificate of authority. All disciplinary proceedings shall be conducted in accordance with this chapter.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7653.5. Annual unannounced inspection of cemetery**

The bureau shall annually conduct a minimum of one unannounced inspection of each cemetery for which a certificate of authority is required.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

#### **§ 7653.6. Employment of licensed cemetery manager required**

A cemetery licensed under this chapter shall at all times employ a licensed cemetery manager to manage, supervise, and direct its operations. Notwithstanding any other provision of this chapter, licensed cemeteries within close geographical proximity of each other may request the bureau to allow a licensed cemetery manager to manage, supervise, and direct the business or profession of more than one facility.

(a) Every cemetery shall designate a licensed cemetery manager to manage the cemetery, and shall report the designation to the bureau within 10 days of the effective date. Any change in the designated manager shall be reported to the bureau within 10 days.

(b) The designated cemetery manager shall be responsible for exercising direct supervision and control over the operations, employees, and agents of the cemetery as is necessary to ensure full compliance with the applicable provisions of this code, the Health and Safety Code, and any regulations adopted thereto. Failure of the designated cemetery manager or the licensed cemetery to exercise that supervision or control shall constitute a ground for disciplinary action.

(c) A cemetery may employ, in addition to the designated cemetery manager, additional licensed cemetery managers. However, only one licensed cemetery manager may be appointed as the designated cemetery manager of the cemetery.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

**§ 7653.7. Application for cemetery manager license; Qualifications; Examination**

(a) Application for a cemetery manager license shall be made in writing on the form provided by the bureau, verified by the applicant, and filed at the principal office of the bureau. The application shall be accompanied by the fee fixed by this chapter.

(b) The applicant for a cemetery manager license shall be at least 18 years of age, possess a high school diploma or its equivalent, shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480, shall demonstrate compliance with the training and experience requirements established by the bureau, and shall be a resident of this state.

(c) The bureau shall grant a cemetery manager license to any applicant who meets the requirements of this chapter and who has successfully passed the cemetery manager examination administered by the bureau.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

**§ 7653.8. Cemetery manager must hold valid and unexpired cemetery manager license; Employed by or being a corporate officer of a licensed cemetery**

(a) A person shall not engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a cemetery manager without holding a valid, unexpired cemetery manager license issued by the bureau.

(b) A licensed cemetery manager shall not engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a cemetery manager without being employed by, or without being a corporate officer of a licensed cemetery.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016.

**§ 7653.9. Temporary manager; Powers; Term; Compensation**

(a) Notwithstanding any other law, based upon a finding by a court of competent jurisdiction that a cemetery manager of a private cemetery has ceased to perform their duties, as described in subdivision (a) of Section 7611.4, due to a lapse, suspension, surrender, abandonment, or revocation of their license, the court may appoint a temporary manager to manage the cemetery property and to service the prepaid interments of the private cemetery. The court shall appoint a licensed cemetery manager as the temporary manager.

(b) The appointed temporary manager shall have the same powers over the care and maintenance of the private cemetery as a licensed cemetery manager, as described in subdivision (a) of Section 7611.4. The temporary manager shall serve for a limited term not to exceed six months, or until a new licensed manager has been hired, at which time the court shall terminate the appointment of the temporary manager.

(c) The court may authorize the payment of reasonable compensation for the temporary manager's services, which shall be paid by the trustees from available income from the cemetery. In exercising its discretion pursuant to this subdivision, the court shall give due consideration to the ability of the cemetery income to otherwise pay for care and maintenance of the cemetery.

(d)(1) Notwithstanding any other law, if a court has not appointed a temporary manager within six months of the suspension, revocation, or surrender of the license of a cemetery manager of a private cemetery or the appointment of a temporary manager has expired, the county in which the cemetery is located may assume responsibility for the maintenance of the cemetery and may preserve public access to the cemetery until the court can appoint a temporary manager.

(2) If a county assumes maintenance responsibilities for a cemetery under this subdivision, the county shall be reimbursed from the available income in the endowment care fund for maintenance services rendered until a temporary care manager is appointed by the court or a new permanent cemetery manager is found.

(3) If a county assumes maintenance responsibilities for a cemetery under this subdivision, the county shall perform, at a minimum, all of the following maintenance services on the cemetery property:

- (A) Keep cemetery grounds open for public access.
- (B) Trim or mow grass and prune shrubs and trees on cemetery grounds.
- (C) Keep public areas of the cemetery grounds and water features clear of trash and debris.
- (D) Provide a supply of water to keep cemetery grass and plants as green as possible with consideration of water availability.

**HISTORY:** Added Stats 2015 ch 395 § 19 (AB 180), effective January 1, 2016. Amended Stats 2021 ch 442 § 3 (AB 651), effective January 1, 2022.

## ARTICLE 4 APPRENTICES

### Section

7660.	"Apprentice embalmer"
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### § 7660. "Apprentice embalmer"

An apprentice embalmer is a person engaged in the study of embalming under the instruction and supervision of a licensed embalmer who has had at least two years' practical experience as a California licensed embalmer.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended 1947 ch 1079 § 3; Stats 1996 ch 1151 § 23 (AB 2877).

### § 7661. Application for registration

An application for registration as an embalmer's apprentice shall be made upon a form provided by the bureau, verified by the applicant and accompanied by the fee fixed by this chapter.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1998 ch 970 § 55 (AB 2802); Stats 2000 ch 568 § 121 (AB 2888).

### § 7662. Qualifications

In order to qualify as an apprentice embalmer, an applicant shall comply with all of the following requirements:

- (a) Be over 18 years of age.
- (b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (c) Do one of the following:
  - (1) Furnish proof showing completion of a high school course.
  - (2) Furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and that the license has never been suspended or revoked for unethical conduct.
  - (3) Have graduated from a mortuary science program approved by the bureau and accredited by the American Board of Funeral Service Education, or its equivalent, as determined by the bureau, and furnished official transcripts from that program or equivalent.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1941 ch 812 § 2; Stats 1943 ch 992 § 8, effective June 2, 1943; Stats 1947 ch 1079 § 4; Stats 1978 ch 1161 § 406; Stats 1996 ch 1151 § 24 (AB 2877); Stats 1998 ch 970 § 56 (AB 2802); Stats 2000 ch 568 § 122 (AB 2888); Stats 2009 ch 307 § 89 (SB 821), effective January 1, 2010.

### § 7664. Expiration of certificate; Reregistration

Certificates of apprenticeship issued pursuant to this article shall expire when the holder has been issued a license as an embalmer, or six years from the date of registration, whichever first occurs. The certificates may not be renewed, but an apprentice embalmer who has not completed his or her term of apprenticeship at the time his or her certificate expires may apply for reregistration upon compliance with Section 7661. The bureau may, when the circumstances warrant, allow an apprentice credit under a reregistration for the time actually served under a previous registration, but no reregistration shall have the effect of continuing the term of apprenticeship beyond the period specified in Section 7666.

**HISTORY:** Added Stats 1967 ch 1338 § 2. Amended Stats 1996 ch 1151 § 25 (AB 2877); Stats 1998 ch 970 § 58 (AB 2802); Stats 2000 ch 568 § 123 (AB 2888).

### § 7665. Reports of apprenticeship

All registered apprentice embalmers shall comply with the following requirements during their period of apprenticeship:

- (a) Shall file a report of apprenticeship as follows:
  - (1) On or before January 15 of each year covering the period of apprenticeship ending as of December 31 preceding.
  - (2) Upon change of supervising embalmer or employer, or both.
  - (3) Upon completion of apprenticeship.
  - (4) Upon application for leave of absence for a period in excess of 15 days.



(5) Upon suspending apprenticeship to attend a mortuary science program.

(6) Upon application for reregistration after suspension or revocation of registration if a complete report of previous registration has not been filed.

(b) The information contained in the report shall consist of a concise summary of the work done by the apprentice during the period covered thereby, shall be verified by the apprentice and certified to as correct by his or her supervising embalmer and employer. Upon request of the bureau, each funeral director in whose establishment an apprenticeship is being, or has been, served, and each embalmer under whose instruction or supervision an apprenticeship is being or has been served, shall promptly file with the bureau a report or such other information as may be requested relating to the apprenticeship. Failure to comply with the request is cause for revocation by the bureau of the approval granted to the funeral director or embalmer for the training of apprentices and is also a cause for disciplinary action against the funeral director or embalmer.

**HISTORY:** Added Stats 1947 ch 1079 § 7. Amended Stats 1951 ch 815 § 3; Stats 1996 ch 1151 § 26 (AB 2877); Stats 1998 ch 970 § 59 (AB 2802); Stats 2000 ch 568 § 124 (AB 2888); Stats 2009 ch 307 § 90 (SB 821), effective January 1, 2010.

### § 7666. Term of apprenticeship

(a) The term of apprenticeship shall be two years. However, if an apprentice after having served his or her apprenticeship fails to pass the examinations required for an embalmer's license, he or she may continue for one additional term of apprenticeship, which shall be the maximum apprenticeship permitted and provided further that an apprentice may, upon filing an application therefor, be permitted to continue the apprenticeship for a period not to exceed six months, if approved, for any of the following reasons:

(1) While awaiting the processing of applications submitted to the bureau.

(2) While awaiting notification of grades of examinations required under Section 7646.

(3) While awaiting the commencement of a class of a mortuary science program when the apprentice intends to enroll in the program.

Applications filed for an extension of apprenticeship shall be filed by the applicant with the bureau not fewer than 15 days prior to the date the applicant requests the extension to commence.

(b) Terms of apprenticeship may be served before, after, or divided by the mortuary science program at the option of the apprentice; provided, however, that the term of apprenticeship must be completed, excluding time spent in active military service, within six years from the date of original registration, or from the date an apprentice successfully passes the examinations for an embalmer's license required in Section 7646, whichever first occurs, and provided further that if the term of apprenticeship is not completed within the six-year period, the bureau may require that the applicant serve the additional term of apprenticeship, not to exceed two years.

(c) A student attending a mortuary science program may register as an apprentice during the program term but shall receive no credit for apprenticeship on the term required by this code unless he or she is also a full-time employee of a funeral director.

(d) An apprentice while serving his or her required term of apprenticeship shall be a full-time employee in the funeral establishment in which he or she is employed.

**HISTORY:** Added Stats 1947 ch 1079 § 9. Amended Stats 1953 ch 1033 § 7; Stats 1955 ch 562 § 1; Stats 1963 ch 1421 § 1; Stats 1967 ch 1338 § 3; Stats 1969 ch 284 § 2; Stats 1970 ch 960 § 1; Stats 1973 ch 77 § 7; Stats 1996 ch 1151 § 27 (AB 2877); Stats 1998 ch 970 § 60 (AB 2802); Stats 2000 ch 568 § 125 (AB 2888); Stats 2009 ch 307 § 91 (SB 821), effective January 1, 2010.

### § 7667. Leaves of absence

(a) The bureau shall have the power to grant leaves of absence and extensions of leaves of absence and approve absences during the term of apprenticeship.

(b) A leave of absence, including any extensions, shall not be approved for a longer period than an aggregate of one year.

(c) No credit will be given to an apprentice on his or her apprenticeship for the period during which he or she is absent from duty on leave.

(d) Application for a leave of absence and for an extension thereof shall be made by the apprentice on a form provided by the bureau.

(e) Upon termination of a leave of absence, the apprentice shall report that fact to the bureau within 10 days of his or her resumption of apprenticeship by returning to the bureau, his or her certificate of registration accompanied by a statement as to the resumption of apprenticeship which statement shall be certified as correct by the funeral director in whose establishment he or she is to resume his or her duties and by the embalmer under whose supervision he or she is to resume his or her apprenticeship.

(f) Failure to report within 10 days after the expiration date of any leave of absence shall be cause for cancellation of the registration of an apprentice.

**HISTORY:** Added Stats 1947 ch 1079 § 11. Amended Stats 1996 ch 1151 § 29 (AB 2877); Stats 1998 ch 970 § 61 (AB 2802); Stats 2000 ch 568 § 126 (AB 2888).

### **§ 7668. Suspension or revocation of certificates**

The bureau may suspend or revoke a certificate of apprenticeship, after notice and upon complaint and hearing in accordance with the provisions of Article 6, if the apprentice is guilty of any of the following acts or omissions:

- (a) Failure to devote full-time employment to the duties of his or her apprenticeship.
- (b) Failure to make any report required by this chapter.
- (c) Absence from duty except as provided in this code.
- (d) Being on duty as an apprentice while under the influence of any controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9 of the Business and Professions Code, or alcoholic beverages or other intoxicating substances, to an extent dangerous or injurious to himself, herself, any person, or the public to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her certification.
- (e) Disobedience of proper orders or instructions of his or her superior.
- (f) Violation of any provision of this chapter or any rule or regulation of the bureau.
- (g) Soliciting business for a funeral director or for an embalmer in violation of this chapter.
- (h) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.
- (i) Conviction of a crime substantially related to the qualifications, functions and duties of an apprentice, in which case the record of conviction, or a certified copy, shall be conclusive evidence of the conviction.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1939 ch 121 § 10; Stats 1941 ch 812 § 6; Stats 1943 ch 992 § 12, effective June 2, 1943; Stats 1947 ch 1079 § 12; Stats 1953 ch 1033 § 8; Stats 1963 ch 333 § 1; Stats 1978 ch 1161 § 407; Stats 1996 ch 1151 § 30 (AB 2877); Stats 1998 ch 970 § 62 (AB 2802); Stats 2000 ch 568 § 127 (AB 2888).

### **§ 7669. Reregistration after suspension or revocation**

An apprentice who has had his or her certificate of apprenticeship suspended or revoked may, within one year after the suspension or revocation apply for reregistration upon compliance with the law in effect at the time he or she so applies and payment of the apprentice application fee fixed by this chapter. No reregistration shall have the effect of continuing an apprenticeship beyond the period specified in Section 7666.

The bureau may, when the circumstances warrant, allow an apprentice credit under a reregistration for the time actually served under a previous registration, but if the previous registration has been suspended or revoked for unprofessional conduct, not more than 75 percent of the time previously served shall be credited on the reregistration.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended 1939 ch 121 § 11; Stats 1943 ch 992 § 13, effective June 2, 1943; Stats 1947 ch 1079 § 13; Stats 1967 ch 1338 § 5; Stats 1996 ch 1151 § 31 (AB 2877); Stats 1998 ch 970 § 63 (AB 2802); Stats 2000 ch 568 § 128 (AB 2888).

### **§ 7670. Approval of establishment for apprenticeship training**

(a) The apprenticeship required by this article shall be served in a licensed funeral establishment that shall have been previously approved for apprenticeship training by the bureau. In order to qualify for approval, the funeral establishment shall submit to the bureau an application, accompanied by the fee fixed by this chapter, showing:

- (1) That not less than 50 human remains per apprentice employed have been embalmed in the establishment during the 12 months immediately preceding the date of the application.
- (2) That the applicant has, and will continue to have, for each two apprentices employed by the establishment, a full-time employed California embalmer who has had not less than two years' practical experience as a California licensed embalmer immediately preceding the date of application or a trade embalmer who is hired by the establishment on a case-by-case basis who has had not less than two years' practical experience as a California licensed embalmer immediately preceding the date of the application.
- (3) That the licensed funeral establishment applicant meets the requirements of law as to equipment, cleanliness and sanitation as determined by an inspection report filed with the bureau.
- (4) Nothing in this section shall be construed to prohibit a trade embalmer, as described in paragraph (2), from acting as the supervising embalmer of an apprentice pursuant to this section.

(b) Licensed funeral establishments under common ownership within close geographical proximity of each other may request any of the following from the bureau:

(1) To be treated in aggregate for the purpose of meeting the requirements of paragraph (1) of subdivision (a).

(2) To designate one additional supervising embalmer per registered apprentice.

(3) To allow a registered apprentice to serve in any or all of the licensed funeral establishments requested and approved pursuant to this section.

(c) Approval granted under this section shall be renewed annually upon application by the funeral establishment showing continued compliance with the foregoing provisions of this section, filed with the bureau not later than January 15 of each year. An application for renewal shall be accompanied by the fee fixed by this chapter.

(d) For purposes of this section, "trade embalmer" means a person who is an independent California licensed embalmer who embalms dead human bodies on a contractual basis for one or more California licensed funeral establishments.

**HISTORY:** Added Stats 1947 ch 1079 § 14. Amended Stats 1967 ch 1338 § 6; Stats 1996 ch 1151 § 32 (AB 2877); Stats 1998 ch 970 § 64 (AB 2802); Stats 2000 ch 568 § 129 (AB 2888); Stats 2017 ch 150 § 1 (AB 1381), effective January 1, 2018.

### § 7671. Compliance with amendments

No person who is a duly registered apprentice or a student at an approved mortuary science program in California at the time of any amendment to this chapter raising the requirements for apprentice embalmers or license as an embalmers shall be required to comply with the provisions of that amendment.

**HISTORY:** Added Stats 1947 ch 1079 § 22. Amended Stats 2009 ch 307 § 92 (SB 821), effective January 1, 2010.

## ARTICLE 4.5 CREMATED REMAINS DISPOSER

### Section

- 7672. Registration; Exceptions [Repealed effective January 1, 2027]
- 7672. Registration; Exceptions [Operative January 1, 2027]
- 7672.1. Registration form; Fees; Requirements for disposers dispensing remains by air or by boat
- 7672.2. Information booklet [Repealed effective January 1, 2027]
- 7672.2. Information booklet [Operative January 1, 2027]
- 7672.3. Certification or registration of aircraft, boats, and vessels
- 7672.4. Scattering remains without written instructions [Repealed effective January 1, 2027]
- 7672.4. Scattering remains without written instructions [Operative January 1, 2027]
- 7672.5. Provision of permit to person authorizing scattering
- 7672.6. Duties of cremated remains disposer [Repealed effective January 1, 2027]
- 7672.6. Duties of cremated remains disposer [Operative January 1, 2027]
- 7672.7. Annual reports [Repealed effective January 1, 2027]
- 7672.7. Annual reports [Operative January 1, 2027]
- 7672.8. Expiration and renewal of registration
- 7672.9. Failure to renew registration
- 7672.10. Scattering by unregistered person
- 7673. Scattering without written instructions
- 7673.1. Storage of remains as public offense [Repealed effective January 1, 2027]
- 7673.1. Storage of remains as public offense [Operative January 1, 2027]
- 7673.2. Disciplinary actions

**HISTORY:** Added Stats 2015 ch 395 § 20 (AB 180), effective January 1, 2016.

### § 7672. Registration; Exceptions [Repealed effective January 1, 2027]

(a) A person shall not dispose of or offer to dispose of cremated human remains or hydrolyzed human remains unless registered as a cremated remains disposer by the bureau. This article shall not apply to a person, partnership, or corporation holding a certificate of authority as a cemetery, crematory license, hydrolysis facility license, cemetery broker's license, cemetery salesperson's license, or funeral director's license, nor shall this article apply to a person having the right to control the disposition of the cremated remains or hydrolyzed human remains of a person or that person's designee if the person does not dispose of, or offer to dispose of, more than 10 cremated human remains or hydrolyzed human remains within any calendar year.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Stats 2017 ch 846 § 8 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 9 (AB 351), effective January 1, 2023, repealed January 1, 2027.

### § 7672. Registration; Exceptions [Operative January 1, 2027]

(a) A person shall not dispose of, or offer to dispose of, cremated, reduced, or hydrolyzed human remains unless registered as a cremated remains disposer by the bureau. This article does not apply to a person, partnership, or corporation holding a certificate of authority as a cemetery, crematory license, reduction facil-

ity, hydrolysis facility license, cemetery broker's license, cemetery salesperson's license, or funeral director's license, nor shall this article apply to a person having the right to control the disposition of the cremated, reduced, or hydrolyzed human remains of a person or that person's designee if the person does not dispose of, or offer to dispose of, more than 10 human remains within a calendar year.

(b) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 10 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 7672.1. Registration form; Fees; Requirements for disposers dispensing remains by air or by boat**

(a) Registration shall be on the form prescribed by the bureau and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats that may be used in dispensing cremated human remains or hydrolyzed human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.

(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of the person's current pilot's license, and the address of the cremated remains or hydrolyzed human remains storage area at their place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of the person's current boating license and the address of the cremated remains or hydrolyzed human remains storage area at their place of business.

(c) Commencing January 1, 2027, every registered cremated remains disposer who integrates reduced human remains into the soil shall post a copy of the address of the reduced human remains storage area at their place of business.

**HISTORY:** Added Stats 2017 ch 846 § 10 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 11 (AB 351), effective January 1, 2023.

#### **§ 7672.2. Information booklet [Repealed effective January 1, 2027]**

(a) The bureau shall prepare and deliver to each registered cremated remains disposer a booklet that includes, but is not limited to, the following information: details about the registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated human remains or hydrolyzed human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 12 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 12 (AB 351), effective January 1, 2023, repealed January 1, 2027.

#### **§ 7672.2. Information booklet [Operative January 1, 2027]**

(a) The bureau shall prepare and deliver to each registered cremated remains disposer a booklet that includes, but is not limited to, the following information: details about the registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated, reduced, or hydrolyzed human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

(b) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 13 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 7672.3. Certification or registration of aircraft, boats, and vessels**

(a) All aircraft used for the scattering of cremated human remains or hydrolyzed human remains shall be validly certified by the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains or hydrolyzed human remains shall be registered with the Department of Motor Vehicles or documented by a federal agency, as appropriate. The certification or registration shall be available for inspection by the bureau.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 14 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7672.4. Scattering remains without written instructions [Repealed effective January 1, 2027]**

(a) A cremated remains disposer who scatters cremated human remains or hydrolyzed human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters remains in a manner not in accordance with those instructions shall be subject to disciplinary action.



(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 16 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 14 (AB 351), effective January 1, 2023, repealed January 1, 2027.

#### **§ 7672.4. Scattering remains without written instructions [Operative January 1, 2027]**

(a) A cremated remains disposer who scatters cremated human remains or hydrolyzed human remains or who integrates reduced human remains into the soil without specific written instructions from the person having the right to control the disposition of the remains or who scatters or integrates into the soil human remains in a manner not in accordance with those instructions shall be subject to disciplinary action.

(b) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 15 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 7672.5. Provision of permit to person authorizing scattering**

Each cremated remains disposer shall provide the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code with a copy of the completed permit for disposition of human remains pursuant to Chapter 8 (commencing with Section 103050) of Part 1 of Division 102 of the Health and Safety Code within 30 days of the date of the scattering.

**HISTORY:** Added Stats 2015 ch 395 § 20 (AB 180), effective January 1, 2016.

#### **§ 7672.6. Duties of cremated remains disposer [Repealed effective January 1, 2027]**

(a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated remains or hydrolyzed human remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and telephone number of any storage facility being used by the registrant to store cremated remains or hydrolyzed human remains. Cremated remains or hydrolyzed human remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the registered cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains or hydrolyzed human remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

(c) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 18 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 16 (AB 351), effective January 1, 2023, repealed January 1, 2027.

#### **§ 7672.6. Duties of cremated remains disposer [Operative January 1, 2027]**

(a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated, reduced, or hydrolyzed human remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and telephone number of any storage facility being used by the registrant to store cremated, reduced, or hydrolyzed human remains. Cremated, reduced, or hydrolyzed human remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the registered cremated remains disposers, and may inspect any place used by a cremated remains disposer for the storage of cremated, reduced, or hydrolyzed human remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

(c) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 17 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 7672.7. Annual reports [Repealed effective January 1, 2027]**

(a) Each cremated remains disposer shall file, and thereafter maintain, an updated copy of, an annual report on a form prescribed by the bureau. The report shall include, but not be limited to, the names of the deceased persons whose cremated remains or hydrolyzed human remains were disposed of, the dates of re-



ceipt of the cremated remains or hydrolyzed human remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30 and shall be filed with the bureau no later than September 30 of each year.

(b) A cremated remains disposer that makes a willful and material false statement regarding the disposal of cremated remains or hydrolyzed human remains in the annual report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) A cremated remains disposer that makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

(d) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 Stats 2017 ch 846 § 20 (AB 967), effective January 1, 2018, operative July 1, 2020 (AB 967). Amended Stats 2022 ch 399 § 18 (AB 351), effective January 1, 2023, repealed January 1, 2027.

#### **§ 7672.7. Annual reports [Operative January 1, 2027]**

(a) Each cremated remains disposer shall file, and thereafter maintain, an updated copy of, an annual report on a form prescribed by the bureau. The report shall include, but not be limited to, the names of the deceased persons whose cremated, reduced, or hydrolyzed human remains were disposed of, the dates of receipt of the cremated, reduced, or hydrolyzed human remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30 and shall be filed with the bureau no later than September 30 of each year.

(b) A cremated remains disposer who makes a willful and material false statement regarding the disposal of cremated, reduced, or hydrolyzed human remains in the annual report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) A cremated remains disposer who makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

(d) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 19 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 7672.8. Expiration and renewal of registration**

All cremated remains disposer registrations shall expire at midnight on September 30 of each year. A person desiring to renew his or her registration shall file an application for renewal on a form prescribed by the bureau accompanied by the required fee. A registration that has expired may be renewed within five years of its expiration upon payment of all accrued and unpaid renewal fees. The bureau shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the department.

**HISTORY:** Added Stats 2015 ch 395 § 20 (AB 180), effective January 1, 2016.

#### **§ 7672.9. Failure to renew registration**

If a person fails to apply for renewal of his or her cremated remains disposer registration prior to midnight of September 30 of the year for which the registration was issued, no renewal shall be issued except upon payment of the delinquent renewal fee required under Section 7729.2.

**HISTORY:** Added Stats 2015 ch 395 § 20 (AB 180), effective January 1, 2016.

#### **§ 7672.10. Scattering by unregistered person**

(a) A person who scatters cremated human remains or hydrolyzed human remains without a valid registration and who is not otherwise exempt from this article shall be guilty of a misdemeanor. The remains of each person scattered shall constitute a separate violation.

(b) Commencing January 1, 2027, a person who integrates reduced human remains into the soil without a valid registration and who is not otherwise exempt from this article shall be guilty of a misdemeanor. The remains of each person integrated into the soil shall constitute a separate violation.

**HISTORY:** Added Stats 2015 ch 395 § 20 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 399 § 20 (AB 351), effective January 1, 2023.

#### **§ 7673. Scattering without written instructions**

(a) A person who scatters any cremated human remains or hydrolyzed human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters remains in a manner not in accordance with those instructions shall be guilty of a misdemeanor.

(b) Commencing January 1, 2027, a person who integrates reduced human remains into the soil without specific written instructions from the person having the right to control the disposition of the remains, or who integrates reduced human remains into the soil in a manner not in accordance with those instructions shall be guilty of a misdemeanor.

**HISTORY:** Added Stats 2015 ch 395 § 20 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 399 § 21 (AB 351), effective January 1, 2023.

### **§ 7673.1. Storage of remains as public offense [Repealed effective January 1, 2027]**

(a) A cremated remains disposer who stores cremated remains or hydrolyzed human remains in a reckless manner that results in either of the following is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year or by a fine not to exceed five thousand dollars (\$5,000), or by both that fine and imprisonment:

- (1) Loss of all or part of the cremated remains or hydrolyzed human remains.
- (2) Inability to individually identify the cremated remains or hydrolyzed human remains.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 22, effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 22 (AB 351), effective January 1, 2023, repealed January 1, 2027.

### **§ 7673.1. Storage of remains as public offense [Operative January 1, 2027]**

(a) A cremated remains disposer who stores cremated, reduced, or hydrolyzed human remains in a reckless manner that results in either of the following is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year or by a fine not to exceed five thousand dollars (\$5,000), or by both that fine and imprisonment:

- (1) Loss of all or part of the human remains.
- (2) Inability to individually identify the human remains.

(b) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 23 (AB 351), effective January 1, 2023, operative January 1, 2027.

### **§ 7673.2. Disciplinary actions**

A cremated remains disposer shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 7686). Any violation of this article shall also be grounds for disciplinary action.

**HISTORY:** Added Stats 2015 ch 395 § 20 (AB 180), effective January 1, 2016.

## **ARTICLE 5 LICENSES**

Section

7680. Display; Form and content

**HISTORY:** Heading of Article 5 amended by Stats 1947 ch 1079 § 17.

### **§ 7680. Display; Form and content**

Every license issued shall be displayed conspicuously in the place of business or employment of the licensee.

The form and content of every license issued shall be determined in accordance with Section 164.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1943 ch 992 § 14, effective June 2, 1943; Stats 1947 ch 1079 § 18; Stats 1971 ch 716 § 130.

## **ARTICLE 5.5 FUNERAL PRACTICES**

Section

7685. Required list of services and prices; Posting of specified information on Web site

7685.1. Price tags for caskets; Display and availability of caskets for advertised services; Caskets supplied by customers; Diseased bodies

7685.2. Required information to potential purchaser of services or property; Declaration relating to disposition of cremated or hydrolyzed remains; Notice to purchaser of cremation or hydrolysis services [Repealed effective January 1, 2027]

7685.2. Required information to potential purchaser of services or property; Declaration relating to disposition of cremated or hydrolyzed remains; Notice to purchaser of cremation or hydrolysis services [Operative January 1, 2027]

7685.3. Provision of information about Department of Consumer Affairs, Cemetery and Funeral Bureau

7685.5. Availability of consumer guide for funeral and cemetery purchases

7685.6. Preneed agreement information to be disclosed; Disclosure statement requirements; Development of disclosure form and included information

**HISTORY:** Added Stats 1971 ch 1027 § 1.

**§ 7685. Required list of services and prices; Posting of specified information on Web site**

(a)(1) Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to, the price for professional services offered, that may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated. The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale.

(2) The list shall also include a statement indicating that the survivor of the deceased who is handling the funeral arrangements, or the responsible party, is entitled to receive, before the drafting of any contract, a copy of any preneed agreement that has been signed and paid for, in full or in part, by or on behalf of the deceased, and that is in the possession of the funeral establishment.

(3) The funeral director shall also provide a written statement or list that, at a minimum, specifically identifies a particular casket or caskets by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, when a request for specific information on a casket or caskets is made in person by an individual. Prices of caskets and other identifying features such as thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements required to be given over the telephone by Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, shall be provided over the telephone, if requested.

(b)(1) Each licensed funeral establishment that maintains an Internet Web site shall post on its Internet Web site the list of funeral goods and services that are required to be included in the establishment's general price list, pursuant to federal rule, and a statement that the general price list is available upon request.

(2) Information posted pursuant to paragraph (1) shall be provided by a link from the Internet Web site homepage with a word or combination of words, including, but not limited to, "goods," "merchandise," "products," or "services."

(3) An establishment that posts on its Internet Web site homepage the words "price information" or a similar phrase that includes the word "price," with a link that leads to the establishment's general price list, need not comply with paragraphs (1) or (2).

(4) This subdivision shall not be construed to affect an establishment's obligations under federal or state law effective before January 1, 2013.

(5) This subdivision shall become operative on January 1, 2013.

**HISTORY:** Added Stats 1971 ch 1027 § 1. Amended Stats 1992 ch 797 § 1 (AB 3746); Stats 2001 ch 715 § 1 (AB 1277); Stats 2002 ch 664 § 17 (AB 3034); Stats 2011 ch 386 § 1 (SB 658), effective January 1, 2012; Stats 2015 ch 430 § 31 (AB 181), effective January 1, 2016; Stats 2016 ch 86 § 13 (SB 1171), effective January 1, 2017.

**§ 7685.1. Price tags for caskets; Display and availability of caskets for advertised services; Caskets supplied by customers; Diseased bodies**

(a) The funeral director shall in a conspicuous manner place the price on each casket. Individual price tags on caskets shall include the thickness of metal, or type of wood, or other construction, as applicable, in addition to interior and color information. Each casket shall be priced individually, irrespective of the type of service purchased. If a funeral director advertises a funeral service for a stated amount, he or she shall display in a reasonably convenient location in the showroom and have available for sale, any casket which is used for determining that price.

(b) No funeral director shall charge the survivor of the deceased who is handling the funeral or burial arrangements or the responsible party a handling fee for a casket supplied by the survivor or responsible party.

(c) No funeral director or embalmer shall charge any additional fee for handling or embalming a body when death was due to a contagious or infectious disease.

**HISTORY:** Added Stats 1971 ch 1027 § 1. Amended Stats 1992 ch 797 § 2 (AB 3746).

**§ 7685.2. Required information to potential purchaser of services or property; Declaration relating to disposition of cremated or hydrolyzed remains; Notice to purchaser of cremation or hydrolysis services [Repealed effective January 1, 2027]**

(a) A funeral director shall not enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until the funeral director has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of the funeral director's facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery, crematory, or hydrolysis facility charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under those sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation or hydrolysis and disposition of the person's own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains or hydrolyzed human remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains or hydrolyzed human remains and the person who is contracting for the cremation or hydrolysis services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium or hydrolysis facility; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains or hydrolyzed human remains. The form shall be signed and dated by the person arranging for the cremation or hydrolysis and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation or hydrolysis service.

(c) A funeral director entering into a contract to furnish cremation or hydrolysis services shall provide to the purchaser of cremation or hydrolysis services, either on the first page of the contract for cremation or hydrolysis services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains or hydrolyzed human remains may remove the remains in a durable container from the place of cremation, hydrolysis, or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container or hydrolyzed human remains container cannot accommodate all cremated remains or hydrolyzed human remains of the deceased, the crematory or hydrolysis facility shall provide a larger cremated remains container or hydrolyzed human remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

(d) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 24 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2018 ch 92 § 11 (SB 1289), effective January 1, 2019, operative July 1, 2020; Stats 2022 ch 399 § 24 (AB 351), effective January 1, 2023, repealed January 1, 2027.

## **§ 7685.2. Required information to potential purchaser of services or property; Declaration relating to disposition of cremated or hydrolyzed remains; Notice to purchaser of cremation or hydrolysis services [Operative January 1, 2027]**

(a) A funeral director shall not enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until the funeral director has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, if that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of the facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery, crematory, reduction facility, or hydrolysis facility charges, newspa-



per notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under those sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation, reduction, or hydrolysis and disposition of the person's own remains, a signed declaration designating specific instructions with respect to the disposition of cremated, reduced, or hydrolyzed human remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the human remains and the person who is contracting for the cremation, reduction, or hydrolysis services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium, reduction facility, or hydrolysis facility; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated, reduced, or hydrolyzed human remains. The form shall be signed and dated by the person arranging for the cremation, reduction, or hydrolysis and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation, reduction, or hydrolysis service.

(c) A funeral director entering into a contract to furnish cremation, reduction, or hydrolysis services shall provide to the purchaser of those services, either on the first page of the contract for cremation, reduction, or hydrolysis services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains or hydrolyzed human remains may remove the remains in a durable container from the place of cremation, hydrolysis, or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container or hydrolyzed human remains container cannot accommodate all cremated remains or hydrolyzed human remains of the deceased, the crematory or hydrolysis facility shall provide a larger cremated remains container or hydrolyzed human remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

(3) If the person is contracting for reduction services, the estimated volume of the reduced human remains. The person having the right to control the reduced human remains shall be given the option of receiving none, part, or all of the reduced human remains and shall be notified, if receiving none or only part of the reduced human remains, of the location where the balance of the remains will be integrated into the soil.

(d) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 25 (AB 351), effective January 1, 2023, operative January 1, 2027.

### **§ 7685.3. Provision of information about Department of Consumer Affairs, Cemetery and Funeral Bureau**

The current address, telephone number, and name of the Department of Consumer Affairs, Cemetery and Funeral Bureau shall appear on the first page of any contract for goods and services offered by a licensee. At a minimum, the information shall be in 8-point boldface type and make this statement:

“FOR MORE INFORMATION ON FUNERAL, CEMETERY, AND CREMATION MATTERS, CONTACT: DEPARTMENT OF CONSUMER AFFAIRS, CEMETERY AND FUNERAL BUREAU (ADDRESS), (TELEPHONE NUMBER).”

**HISTORY:** Added Stats 1992 ch 797 § 3 (AB 3746). Amended Stats 1994 ch 26 § 208 (AB 1807), effective March 30, 1994, ch 570 § 1 (AB 1392); Stats 1998 ch 970 § 66 (AB 2802); Stats 1999 ch 657 § 33 (AB 1677); Stats 2000 ch 568 § 131 (AB 2888); Stats 2001 ch 305 § 4 (AB 408); Stats 2015 ch 395 § 21 (AB 180), effective January 1, 2016.

### **§ 7685.5. Availability of consumer guide for funeral and cemetery purchases**

(a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.



(b) A licensee shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

(c) Prior to the drafting of a contract for services, the licensee shall provide, for retention, the consumer with a copy of the consumer guide for funeral and cemetery purchases described in subdivisions (a) and (b).

**HISTORY:** Added Stats 1998 ch 286 § 1 (AB 1709). Amended Stats 2000 ch 568 § 132 (AB 2888); Stats 2001 ch 715 § 2 (AB 1277); Stats 2015 ch 395 § 22 (AB 180), effective January 1, 2016.

#### **§ 7685.6. Preneed agreement information to be disclosed; Disclosure statement requirements; Development of disclosure form and included information**

(a) Every funeral establishment, prior to drafting any contract for funeral goods or services, shall present to the survivor of the deceased who is handling the funeral arrangements, or the responsible party, a statement disclosing whether or not the funeral establishment has any preneed agreement made by or on behalf of the deceased. If the funeral establishment has a preneed agreement made by or on behalf of the deceased, the statement shall also declare the establishment's compliance with Section 7745. The disclosure statement shall be signed and dated by the representative of the funeral establishment and by the survivor or responsible party. The completed disclosure statement shall be retained by the funeral establishment for a period of time determined by the bureau, and a copy shall be given to the survivor or responsible party.

(b) The bureau shall develop a form, in consultation with the funeral industry and any other interested parties, that is separate and distinct from other forms, upon which the disclosure statement shall be made. The bureau shall make the form available to funeral establishments for purposes of reproduction and distribution, and the form shall also be available electronically through the Internet. The form shall be simple and easy to read and shall include all of the following:

(1) The definition of a preneed arrangement, adopted by the bureau by regulation.

(2) A statement of the funeral establishment's responsibilities under Section 7745.

(3) Information about how the consumer may contact the bureau for more information or how to file a complaint against a licensee.

(c) A violation of this section constitutes grounds for disciplinary action.

(d) This section shall become operative July 1, 2002.

**HISTORY:** Added Stats 2001 ch 715 § 3 (AB 1277), operative July 1, 2002.

### **ARTICLE 6 DISCIPLINARY PROCEEDINGS**

#### **Section**

- 7686. Grounds for suspension or revocation of license; Proceedings
- 7686.5. Filing of accusation against licensee
- 7687. Investigation following complaint
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- 7690. Penalties
- 7691. Conviction of crime
- 7692. Misrepresentation or fraud in business
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## Section

- 7711.7. Renewal of license after expiration date
- 7711.8. Scope of definitions
- 7711.9. "Original cemetery broker's license"
- 7711.10. "Renewal cemetery broker's license"
- 7711.11. "Original cemetery salesperson's license"
- 7711.12. "Renewal cemetery salesperson's license"

**§ 7686. Grounds for suspension or revocation of license; Proceedings**

The bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

**HISTORY:** Added Stats 1939 ch 39 § 1, as B & P C § 7690. Renumbered by Stats 1939 ch 121 § 12. Amended Stats 1945 ch 884 § 1; Stats 1953 ch 398 § 1; Stats 1998 ch 970 § 67 (AB 2802); Stats 2000 ch 568 § 133 (AB 2888).

**§ 7686.5. Filing of accusation against licensee**

All accusations against licensees shall be filed with the bureau within two years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the bureau, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within three years after such discovery.

**HISTORY:** Added Stats 1939 ch 121 § 13. Amended Stats 1941 ch 88 § 1; Stats 1945 ch 884 § 2; Stats 1953 ch 1033 § 9; Stats 1955 ch 562 § 2; Stats 1976 ch 961 § 2; Stats 1998 ch 970 § 68 (AB 2802); Stats 2000 ch 568 § 134 (AB 2888).

**§ 7687. Investigation following complaint**

Upon receipt of a complaint, the bureau may make or cause to be made such investigation as it deems necessary.

**HISTORY:** Added Stats 1939 ch 121 § 14. Amended Stats 1947 ch 1079 § 15; Stats 1984 ch 47 § 70, effective March 21, 1984; Stats 1998 ch 970 § 69 (AB 2802); Stats 2000 ch 568 § 135 (AB 2888).

**§ 7688. Director's role in investigations**

Notwithstanding any law, in the event of expiration or suspension of a license by operation of law or by order or decision of the director or a court of law, or the voluntary surrender of a license by a cemetery licensee, cemetery owner, cemetery operator, or holder of a cemetery certificate of authority, the director may coordinate and assist with any investigation of or action or criminal proceedings against the cemetery licensee and its officers, agents, or employees that is conducted by another law enforcement entity.

**HISTORY:** Added Stats 2021 ch 442 § 4 (AB 651), effective January 1, 2022.

**§ 7690. Penalties**

The bureau may discipline every accused licensee whose default has been entered or who has been tried and found guilty, after formal hearing, of any act or omission constituting a ground for disciplinary action.

Any of the following penalties may be imposed by the bureau:

- (a) Suspension of the disciplinary order.
- (b) Reproval, public or private.
- (c) Probation.
- (d) Suspension of the right to practice.
- (e) Revocation of the right to practice.
- (f) Such other penalties as the bureau deems fit.

**HISTORY:** Added Stats 1939 ch 121 § 20. Amended Stats 1945 ch 884 § 3; Stats 1998 ch 970 § 71 (AB 2802); Stats 2000 ch 568 § 136 (AB 2888).

**§ 7691. Conviction of crime**

Conviction of a crime substantially related to the qualifications, functions and duties of the license holder in question constitutes a ground for disciplinary action. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1957 ch 1539 § 2; Stats 1978 ch 1161 § 408.

**§ 7692. Misrepresentation or fraud in business**

Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1.

**§ 7692.5. False or misleading statement regarding law**

Any false or misleading statement regarding any law or regulation pertaining to the preparation for burial, transportation for burial, or burial of the dead, made wilfully by a licensee to obtain business as a funeral director or embalmer, constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1953 ch 1383 § 1.

**§ 7693. False or misleading advertising**

False or misleading advertising as a funeral establishment, funeral director, or embalmer constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1998 ch 970 § 72 (AB 2802).

**§ 7694. Solicitation of business**

Solicitation, after a death or while a death is impending, of funeral directing or embalming business by the licensee, or by the agents, assistants or employees of the licensee, when such solicitation is authorized or ratified by the licensee, constitutes a ground for disciplinary action. This section does not prohibit general advertising.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1941 ch 87 § 1.

**§ 7695. Employment of “cappers,” “steerers,” and “solicitors”**

Employment by the licensee of persons known as “cappers” or “steerers” or “solicitors,” or other such persons to solicit, after a death or while a death is impending, funeral directing or embalming business constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1941 ch 88 § 2.

**§ 7696. Employment of persons to solicit others to turn over human remains to particular funeral director or embalmer**

Employment, directly or indirectly, of any apprentice, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence human remains may be turned over to a particular funeral director or embalmer constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1998 ch 970 § 73 (AB 2802).

**§ 7697. Buying of business; Payment of commission**

The buying, after a death or while a death is impending, of funeral directing and embalming business by the licensee, the licensee’s agents, assistants or employees, or the direct or indirect payment, or offer of payment, of a commission by the licensee, the licensee’s agents, assistants or employees for the purpose of such buying of business, constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1941 ch 88 § 3; Stats 1998 ch 970 § 74 (AB 2802).

**§ 7699. Aiding or abetting unlicensed practice**

Aiding or abetting an unlicensed person to practice funeral directing or embalming constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1.

**§ 7700. Profane, indecent, or obscene language**

Using profane, indecent, or obscene language in the course of the preparation for burial, removal, or other disposition of, or during the funeral service for, human remains, or within the immediate hearing of the family

or relatives of a deceased, whose remains have not yet been interred or otherwise disposed of constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended 1939 ch 121 § 21; Stats 1998 ch 970 § 75 (AB 2802).

#### **§ 7701. Solicitation or acceptance of bonus or commission from crematory, mausoleum, or cemetery**

Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing human remains to be disposed of in any crematory, mausoleum or cemetery constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1998 ch 970 § 76 (AB 2802).

#### **§ 7701.5. Solicitation or acceptance of bonus or commission from florist**

Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing the purchase of flowers from any particular florist or dealer in flowers, for use in connection with a funeral service, constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1953 ch 1240 § 1.

#### **§ 7702. Furnishing used casket; Exception**

Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with the burial or other disposition of, human remains constitutes a ground for disciplinary action; provided, however, this section shall not apply to exterior casket hardware which is not sold to the purchaser, or where same is reserved by contract.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1943 ch 992 § 15, effective June 2, 1943; Stats 1998 ch 970 § 77 (AB 2802).

#### **§ 7703. Violation of chapter or regulations**

Violation of any of the provisions of this chapter or of the rules and regulations adopted pursuant to this chapter constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1976 ch 961 § 3.

#### **§ 7704. Violation of law relating to human remains**

Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of human remains constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1998 ch 970 § 78 (AB 2802).

#### **§ 7705. Fraud or misrepresentation in obtaining license**

Fraud or misrepresentation in obtaining a license constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1.

#### **§ 7706. Refusal to surrender human remains, personal effects, and certificate or permit**

Refusing to surrender promptly the custody of human remains, the personal effects, and any certificate or permit required under Division 102 (commencing with Section 102100) of the Health and Safety Code that is in the possession or control of the licensee upon the express order of the person lawfully entitled to custody of the human remains constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1998 ch 970 § 79 (AB 2802); Stats 2003 ch 874 § 25 (SB 363).

#### **§ 7707. Gross negligence or incompetence; Unprofessional conduct**

Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground for disciplinary action.

**HISTORY:** Added Stats 1939 ch 121 § 22. Amended Stats 1957 ch 652 § 1.

#### **§ 7708. Denial of application on proof of conviction of crime**

The bureau, after a hearing, may deny the application of a funeral establishment, funeral director, embalmer, or apprentice embalmer on proof that the applicant has committed acts or crimes constituting grounds for denial of licensure under Section 480. The record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

**HISTORY:** Added Stats 1951 ch 815 § 5. Amended Stats 1957 ch 1539 § 3; Stats 1978 ch 1161 § 410; Stats 1996 ch 1151 § 33 (AB 2877); Stats 1998 ch 970 § 80 (AB 2802); Stats 2000 ch 568 § 137 (AB 2888).

### **§ 7709. What constitutes “conviction”**

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

**HISTORY:** Added Stats 1957 ch 1539 § 4. Amended Stats 1998 ch 970 § 81 (AB 2802); Stats 2000 ch 568 § 138 (AB 2888).

### **§ 7711. Reinstatement of license**

When a funeral establishment, funeral director or embalmer has had his, or her, or its license suspended, canceled, or revoked by the bureau, the bureau, upon written application by the licensee affected, upon not less than 10 days' notice to all parties of record in the particular case, and after hearing all evidence offered in support of and in opposition to that application, may, in its discretion, and upon those terms as it may deem just, reinstate the applicant.

**HISTORY:** Added Stats 1939 ch 39 § 1, as B & P C § 7726. Amended Stats 1943 ch 992 § 16, effective June 2, 1943; Stats 1949 ch 645 § 1; Stats 1953 ch 1033 § 11; Stats 1955 ch 730 § 1; Stats 1957 ch 651 § 2; Amended and renumbered by Stats 1961 ch 1249 § 7, operative February 1, 1962; Amended Stats 1996 ch 1151 § 34 (AB 2877); Stats 1998 ch 970 § 82 (AB 2802); Stats 2000 ch 568 § 139 (AB 2888).

#### **§ 7711.1. Unprofessional conduct as grounds for disciplinary action**

Unprofessional conduct by any licensee or registrant or by any agent or employee of a licensee or registrant constitutes grounds for disciplinary action. Unprofessional conduct includes, but is not limited to, the following:

- (a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of this chapter and any regulation adopted thereunder, or of any federal or state law or regulation governing the disposition of human remains, operation of cemeteries or crematories, the sale of cemetery property, or the sale of crematory services or commodities.
- (b) Negligence in performing any act related to the operation of a cemetery or crematory.

**HISTORY:** Added Stats 2015 ch 395 § 23 (AB 180), effective January 1, 2016.

#### **§ 7711.2. Specified acts; Investigation and sanctions**

The bureau may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a cemetery licensee, and may temporarily suspend or permanently revoke a license at any time where the licensee, within the immediately preceding three years, while a cemetery licensee in performing or attempting to perform any of the acts specified in this act, has been guilty of any of the following:

- (a) Making any substantial misrepresentation.
- (b) Making any false statement of a character likely to influence or persuade.
- (c) A continued and flagrant course of misrepresentation or making of false promises through cemetery agents or salespersons.
- (d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.
- (e) Commingling the money or other property of his or her principal with his or her own.
- (f) The practice of claiming or demanding a fee, compensation, or commission under any exclusive agreement authorizing or employing a licensee to sell, buy, or exchange cemetery property for compensation or commission where such agreement does not contain a definite, specified date of final and complete termination.
- (g) The claiming or taking by a licensee of any secret or undisclosed amount of compensation, commission, or profit or the failure of a licensee to reveal to the employer of such licensee the full amount of such licensee's compensation, commission, or profit under any agreement authorizing or employing such licensee to sell, buy, or exchange cemetery property for compensation or commission prior to or coincident with the signing of such agreement evidencing the meeting of the minds of the contracting parties, regardless of the form of such agreement, whether evidenced by documents in an escrow or by any other or different procedure.



(h) The use by a licensee of any provision allowing the licensee an option to purchase in an agreement authorizing or employing such licensee to sell, buy, or exchange cemetery property for compensation or commission, except when such licensee prior to or coincident with election to exercise such option to purchase reveals in writing to the employer the full amount of the licensee's profit and obtains the written consent of the employer approving the amount of such profit.

(i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

(j) The misrepresentations and false statements mentioned in this section also include misrepresentation and false statements as to other property than that which the cemetery licensee may be selling or attempting to sell.

**HISTORY:** Added Stats 2015 ch 395 § 24 (AB 180), effective January 1, 2016.

### **§ 7711.3. Suspension or revocation on conviction of crime, or for committing proscribed acts**

The bureau may suspend or revoke the license of any cemetery licensee who, within the immediately preceding three years, has done any of the following:

(a) Been convicted of a crime substantially related to the qualifications, functions, and duties of such licensee. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Knowingly authorized, directed, connived at, or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his or her business or any cemetery property offered for sale.

(c) Willfully disregarded or violated any of the provisions of this act relating to cemetery brokerage.

(d) Acted or conducted himself or herself in a manner which would have warranted the denial of his or her application for a cemetery license, or for a renewal thereof.

**HISTORY:** Added Stats 2015 ch 395 § 25 (AB 180), effective January 1, 2016.

### **§ 7711.4. Requirement that employer file statement of facts after discharging salesperson**

When any salesperson is discharged by his or her employer for a violation of any of the provisions of this article prescribing a ground for disciplinary action, a verified written statement of the facts with reference thereto shall be filed forthwith with the bureau by the employer and, if the employer fails to notify the bureau as required by this section, the bureau may temporarily suspend or permanently revoke the cemetery license of the employer in accordance with the provisions of this act.

**HISTORY:** Added Stats 2015 ch 395 § 26 (AB 180), effective January 1, 2016.

### **§ 7711.5. Denial, suspension, or revocation of business organization's license, as to its officer, agent, or member**

The bureau may deny, suspend, or revoke the cemetery license of a corporation as to any officer or agent acting under its cemetery license, and the cemetery license of a copartnership as to any member acting under its cemetery license, without revoking the cemetery license of the corporation or of the copartnership.

**HISTORY:** Added Stats 2015 ch 395 § 27 (AB 180), effective January 1, 2016.

### **§ 7711.6. License fees; Licenses for fiscal year**

The fees for cemetery licenses at all periods of the fiscal year is the same as provided in this article. All cemetery license fees are payable in advance of issuing the licenses and at the time of filing the application. All licenses shall be issued for the fiscal year and shall expire on June 30 of each fiscal year at midnight.

**HISTORY:** Added Stats 2015 ch 395 § 28 (AB 180), effective January 1, 2016.

### **§ 7711.7. Renewal of license after expiration date**

(a) If a person fails to apply for a license renewal, no renewal license shall be issued except upon payment of the delinquent renewal fee required under Section 7729.2.

(b) A person who fails to renew his or her license within one year of the expiration date shall not engage in any of the activities authorized by a license unless he or she first files the application required for an original license, pays the original license fee, and otherwise complies with all of the provisions of this act pertaining to the issuance of an original license.

**HISTORY:** Added Stats 2015 ch 395 § 29 (AB 180), effective January 1, 2016.

**§ 7711.8. Scope of definitions**

The definitions contained in this article are solely for the purposes of this article.

**HISTORY:** Added Stats 2015 ch 395 § 30 (AB 180), effective January 1, 2016.

**§ 7711.9. “Original cemetery broker’s license”**

An original cemetery broker’s license is a cemetery license issued to a person who did not have a cemetery broker’s license on June 30 of the fiscal year previous to the fiscal year for which the license is issued.

**HISTORY:** Added Stats 2015 ch 395 § 31 (AB 180), effective January 1, 2016.

**§ 7711.10. “Renewal cemetery broker’s license”**

A renewal cemetery broker’s license is a cemetery license issued to a person who had a cemetery broker’s license unrevoked and unsuspended on June 30 of the fiscal year previous to the fiscal year for which the renewal cemetery license is issued.

**HISTORY:** Added Stats 2015 ch 395 § 32 (AB 180), effective January 1, 2016.

**§ 7711.11. “Original cemetery salesperson’s license”**

An original cemetery salesperson’s license is a cemetery license issued to a person who did not have a cemetery salesperson’s or a broker’s license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30 of the fiscal year previous to the fiscal year for which the salesperson’s license is issued.

**HISTORY:** Added Stats 2015 ch 395 § 33 (AB 180), effective January 1, 2016.

**§ 7711.12. “Renewal cemetery salesperson’s license”**

A renewal cemetery salesperson’s license is a cemetery license issued to a person who had a cemetery salesperson’s or a broker’s license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30 of the fiscal year previous to the fiscal year for which the salesperson’s license is issued.

**HISTORY:** Added Stats 2015 ch 395 § 34 (AB 180), effective January 1, 2016.

**ARTICLE 6.5 CREMATORIES****Section**

- 7712. Operating entity
- 7712.1. Change of ownership requirements
- 7712.2. License application
- 7712.3. Applicability of Health and Safety Code §§ 8341 et seq. to crematories
- 7712.4. Proof of compliance with laws and regulations
- 7712.5. Adoption of rules and regulations; Investigation of applicant; Expenses
- 7712.6. Prerequisites for cremation
- 7712.7. Disclosure of prohibition on viewing of cremation
- 7712.8. Records
- 7712.9. Annual regulatory charge
- 7712.10. Supervisory manager; Qualification
- 7712.11. Facility manager
- 7713. Employment of licenses crematory manager required
- 7713.1. Application for crematory manager license; Qualifications; Examination
- 7713.2. Activities prohibited without valid license
- 7713.3. Cremation of human remains without valid unexpired crematory license as misdemeanor
- 7713.4. Discipline

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

**§ 7712. Operating entity**

A crematory established, operated, or maintained, may be operated by a corporation, partnership, or natural person, provided that a valid crematory license shall have been issued by the bureau.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

**§ 7712.1. Change of ownership requirements**

Any change in the ownership of a crematory shall be reported to the bureau. Any transfer in a single transaction or a related series of transactions of more than 50 percent of the equitable interest in a licensed cre-

matory shall constitute a change of ownership. When a change of ownership in a crematory occurs, the existing crematory license shall lapse and the new owner shall obtain a new license from the bureau as otherwise provided in this act. The bureau shall not require an applicant under this section to obtain any new permit or license from any other governmental agency when the existing permit or license is valid.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

#### **§ 7712.2. License application**

Application for a crematory license shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the fee provided for in this article and shall show that the applicant owns or is actively operating a crematory in this state or that the applicant is in a position to commence operating such a crematory.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

#### **§ 7712.3. Applicability of Health and Safety Code §§ 8341 et seq. to crematories**

The provisions of Article 5 (commencing with Section 8341) of Chapter 2 of Part 3 of Division 8 of the Health and Safety Code shall apply to crematories licensed under this chapter.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

#### **§ 7712.4. Proof of compliance with laws and regulations**

The bureau may require such proof as it deems advisable concerning the compliance by such applicant with all the laws, rules, regulations, ordinances, and orders applicable to the applicant and shall not issue such crematory license until it has satisfied itself that the public interest will be served by such applicant.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

#### **§ 7712.5. Adoption of rules and regulations; Investigation of applicant; Expenses**

(a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge and experience and financial responsibility for applicants for a crematory license. In reviewing an application for a crematory license, the bureau may consider acts of the applicant, including acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a crematory license under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a crematory license, the bureau may cause an investigation to be made of the physical status, plans, specifications, and financing of the proposed crematory, the character of the applicant, including, if applicable, its officers, directors, shareholders, or members, and any other qualifications required of the applicant under this article, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

(c) At the time of the filing of the application required by this article, the applicant shall pay to the Cemetery and Funeral Fund the sum of seven hundred fifty dollars (\$750) to defray the expenses of investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall, within five days after request therefor, deposit an additional sum sufficient to defray such expenses, provided that the total sum shall not exceed nine hundred dollars (\$900).

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016, operative July 1, 2016. Amended Stats 2022 ch 625 § 45 (SB 1443), effective January 1, 2023.

#### **§ 7712.6. Prerequisites for cremation**

A crematory licensee under this article shall not conduct any cremations:

(a) Unless the licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition to be made of the remains, agreeing to pay the regular fees of the licensee for cremation, disposition, and other services rendered, and any other contractual provisions as may be required by the bureau.

(b) Of any remains more than 24 hours after delivery of the remains, unless the remains have been preserved in the interim by refrigeration or embalming.

(c) Unless the licensee has a contractual relationship with a licensed cemetery authority for final disposition of cremated human remains by burial, entombment, or inurnment of any and all remains which are not lawfully disposed of or which are not called for or accepted by the person or persons entitled to the custody and control of the disposition thereof within 90 days of the date of death.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

**§ 7712.7. Disclosure of prohibition on viewing of cremation**

Every crematory licensee, who prohibits relatives or the responsible party from viewing the cremation process, shall disclose this fact in writing to the person or persons entitled to custody of the remains prior to the signing of any contract.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

**§ 7712.8. Records**

Each crematory licensee shall keep such records as may be required by the bureau to ensure compliance with all laws relating to the disposition of cremated human remains and shall file annually with the bureau, a report in the form prescribed by the bureau, describing the operations of the licensee, including the number of cremations made, the disposition thereof, and any other information as the bureau may, from time to time, require.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

**§ 7712.9. Annual regulatory charge**

Every crematory licensee operating a crematory pursuant to a license issued in compliance with this article shall pay an annual regulatory charge for each crematory of seven hundred fifty dollars (\$750). In addition to an annual regulatory charge for each crematory, every licensee operating a crematory pursuant to a license issued pursuant to this article shall pay an additional charge of eleven dollars and fifty cents (\$11.50) per cremation made during the preceding quarter, which charges shall be deposited in the Cemetery and Funeral Fund.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016, operative July 1, 2016. Amended Stats 2022 ch 625 § 46 (SB 1443), effective January 1, 2023.

**§ 7712.10. Supervisory manager; Qualification**

(a) Each crematory for which a crematory license is required shall be operated under the supervision of a manager qualified in accordance with rules adopted by the bureau. Each manager shall be required to successfully pass a written examination evidencing an understanding of the applicable provisions of this code and of the Health and Safety Code.

(b) A person shall not engage in the business of, act in the capacity of, or advertise or assume to act as, a crematory manager without first obtaining a license from the bureau.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

**§ 7712.11. Facility manager**

(a) Each hydrolysis facility for which a hydrolysis facility license is required shall be operated under the supervision of a manager qualified in accordance with rules adopted by the bureau. A licensed crematory manager may be designated as a hydrolysis facility manager with appropriate certification upon demonstrating an understanding of the applicable provisions of this code and of the Health and Safety Code, as determined by the bureau.

(b) A person shall not engage in the business of, act in the capacity of, or advertise or assume to act as, a hydrolysis facility manager without a valid crematory manager license and obtaining a certification from the bureau.

(c) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 25 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7713. Employment of licenses crematory manager required**

A crematory shall at all times employ a licensed crematory manager to manage, supervise, and direct its operations.

(a) Every crematory shall designate a licensed crematory manager to manage the crematory, and shall report the designation to the bureau within 10 days of the effective date. Any change in the designated manager shall be reported to the bureau within 10 days. Notwithstanding any provision of this chapter to the contrary, licensed crematories within close geographical proximity of each other may request the bureau to allow a licensed crematory manager to manage, supervise, and direct the business or profession of more than one facility.

(b) The designated crematory manager shall be responsible for exercising direct supervision and control over the operations, employees, and agents of the crematory as is necessary to ensure full compliance

with the applicable provisions of this code, the Health and Safety Code, and any regulations adopted thereto. Failure of the designated crematory manager or the licensed crematory to exercise that supervision or control shall constitute a ground for disciplinary action.

(c) A crematory may employ, in addition to the designated crematory manager, additional licensed crematory managers. However, only one licensed crematory manager may be appointed as the designated crematory manager of the crematory.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016. Amended Stats 2017 ch 573 § 42 (SB 800), effective January 1, 2018.

#### **§ 7713.1. Application for crematory manager license; Qualifications; Examination**

(a) Application for a crematory manager license shall be made in writing on the form provided by the bureau, verified by the applicant and filed at the principal office of the bureau. The application shall be accompanied by the fee fixed by this chapter.

(b) The applicant for a crematory manager license shall be at least 18 years of age, possess a high school diploma or its equivalent, shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480, shall demonstrate compliance with the training and experience requirements established by the bureau, and shall be a resident of this state.

(c) The bureau shall grant a crematory manager license to any applicant who meets the requirements of this chapter and who has successfully passed the crematory manager examination administered by the bureau.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

#### **§ 7713.2. Activities prohibited without valid license**

(a) A person shall not engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a crematory manager without holding a valid, unexpired crematory manager license issued by the bureau.

(b) A licensed crematory manager shall not engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a crematory manager without being employed by, or without being a sole proprietor, partner, or corporate officer of, a licensed crematory.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

#### **§ 7713.3. Cremation of human remains without valid unexpired crematory license as misdemeanor**

It is a misdemeanor for any person, firm, or corporation to cremate human remains or to engage in the disposition thereof without a valid, unexpired crematory license. Each cremation shall be a separate violation.

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

#### **§ 7713.4. Discipline**

A crematory licensee shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 7686).

**HISTORY:** Added Stats 2015 ch 395 § 35 (AB 180), effective January 1, 2016.

### **ARTICLE 6.6 REDUCTION FACILITIES**

#### **Section**

- 7714. Eligible to operate
- 7714.1. Application
- 7714.2. Change in ownership
- 7714.3. Rules and regulations
- 7714.4. Reduction facility requirements
- 7714.5. Violation of license requirement
- 7714.6. Subject to and disciplined by the bureau
- 7714.7. Operative date

**HISTORY:** Added Stats 2022 ch 399 § 26 (AB 351), effective January 1, 2023.

#### **§ 7714. Eligible to operate**

A corporation, partnership, or natural person may operate, establish, or maintain a reduction facility with a valid reduction facility license issued by the bureau.

**HISTORY:** Added Stats 2022 ch 399 § 26 (AB 351), effective January 1, 2023.



**§ 7714.1. Application**

(a) The application for a reduction facility license shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the fees required pursuant to Article 8 (commencing with Section 7725).

(b) The bureau shall require an applicant for a reduction facility license to prove compliance with all applicable laws, rules, regulations, ordinances, and orders, and shall not issue a reduction facility license until the bureau is satisfied that the public interest, human health, and environmental quality will be served by the applicant.

(c) The applicant for a reduction facility license shall present to the bureau any state or locally required permits for business operations, including, but not limited to, permits required by the local public health department or other state or locally required permits.

**HISTORY:** Added Stats 2022 ch 399 § 26 (AB 351), effective January 1, 2023.

**§ 7714.2. Change in ownership**

A change in the ownership of a reduction facility shall be reported to the bureau. A transfer in a single transaction or related transactions of more than 50 percent of the equitable interest in a reduction facility constitutes a change of ownership. When a change in ownership in a reduction facility occurs, the existing reduction facility license shall lapse and the new owner shall obtain a license from the bureau as required. The bureau shall not require an applicant under this section to obtain a new permit or license from any other governmental agency when the existing permit or license is valid.

**HISTORY:** Added Stats 2022 ch 399 § 26 (AB 351), effective January 1, 2023.

**§ 7714.3. Rules and regulations**

(a) The bureau shall adopt, and may amend, rules and regulations prescribing standards for applicants for reduction facility licenses. In reviewing an application for a reduction facility license, the bureau may consider acts of the applicant, including acts of the incorporators, officers, directors, and stockholders of the applicant, that constitute grounds for the denial of a reduction facility license pursuant to Division 1.5 (commencing with Section 475).

(b)(1) The State Department of Public Health shall adopt, and may amend, rules and regulations prescribing the standards for reduction chambers to preserve the public health and safety and to ensure the destruction of pathogenic microorganisms. A reduction chamber manufacturer shall apply to the State Department of Public Health for approval of a reduction chamber for sale and use in the state.

(2) The department, to cover the reasonable regulatory costs of the department, shall charge an application fee for evaluation of a reduction chamber, not to exceed the reasonable regulatory costs of the evaluation, including time that the department spends on processing the application.

(3) A reduction facility and its employees shall not use a reduction chamber unless it has been approved by the State Department of Public Health pursuant to this subdivision.

(c) The bureau shall grant reduction facility licenses only to applicants that will employ a reduction chamber approved by the State Department of Public Health pursuant to subdivision (b).

(d) A reduction facility shall ensure or conduct annual maintenance of all reduction chambers in use by the facility.

(e) The bureau shall not renew a reduction facility license without proof of annual maintenance of all reduction chambers in use by the facility.

**HISTORY:** Added Stats 2022 ch 399 § 26 (AB 351), effective January 1, 2023.

**§ 7714.4. Reduction facility requirements**

A licensed reduction facility shall not conduct reduction of human remains unless all of the following requirements are met:

(a) The facility is operated under the supervision of a manager qualified in accordance with rules operated by the bureau. A licensed crematory manager may be designated as a reduction facility manager with appropriate certification upon demonstrating an understanding of the applicable provisions of this code and the Health and Safety Code, as determined by the bureau.

(b)(1) The licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition of the remains, in which the person or persons entitled to custody of the remains agree to pay the licensee's regular fee for reduction, disposition, and other services rendered, and any other contractual provisions required by the bureau.

(2) The contract shall include an estimate of the volume of the reduced human remains that will be received and shall offer the following options:

(A) The person entitled to custody of the remains may choose to receive all of the reduced human remains in one or more reduced human remains containers, the number of containers to be specified by the person.

(B) The person entitled to custody of the remains may choose to receive part of the reduced human remains in one or more reduced human remains containers, the amount received to be specified by the person and the balance of the remains to be integrated into the soil by the reduction facility in a conservation area pursuant to Section 7054.5 of the Health and Safety Code.

(C) The person entitled to custody of the remains may choose to receive none of the reduced human remains and to have the reduction facility integrate the remains into the soil in a conservation area pursuant to Section 7054.5 of the Health and Safety Code.

(3) If the person entitled to custody of the remains chooses not to receive all of the reduced human remains pursuant to subparagraph (B) or (C) of paragraph (2), the reduction facility shall notify the person of the location of the conservation area into which the reduced human remains will be integrated.

(c) Reduction of remains begins not more than 24 hours after delivery of the remains to the licensee, unless the remains have been preserved in the interim by refrigeration.

(d) The licensee has either of the following:

(1)(A) A contractual relationship with a licensed cemetery authority for final disposition of reduced human remains by burial, entombment, or inurnment of any and all remains that are not lawfully disposed of or that are not called for or accepted by the person or persons entitled to the custody and control of the disposition of those remains within 90 days of date of death.

(B) A licensed cemetery authority may begin the process of disposition of the reduced remains if they have not been removed from the cemetery by the authorized representative having the right to control disposition pursuant to Section 7100 of the Health and Safety Code within 60 days of the date of receipt and shall bear no liability for that disposal.

(2) A contractual relationship with, or ownership of, a conservation area where the reduction facility may lawfully integrate the reduced human remains into the soil pursuant to Section 7054.5 of the Health and Safety Code. The facility may integrate into the soil any reduced human remains that are not called for or accepted by the person or persons entitled to the custody and control of the disposition of those remains within 90 days of date of death.

**HISTORY:** Added Stats 2022 ch 399 § 26 (AB 351), effective January 1, 2023.

#### **§ 7714.5. Violation of license requirement**

It is a misdemeanor for a person, firm, or corporation to reduce human remains, or to dispose of reduced human remains, without a valid, unexpired reduction facility license. Each reduction of human remains carried out in violation of this section is a separate violation.

**HISTORY:** Added Stats 2022 ch 399 § 26 (AB 351), effective January 1, 2023.

#### **§ 7714.6. Subject to and disciplined by the bureau**

A reduction facility shall be subject to, and shall be disciplined by, the bureau in accordance with, Article 6 (commencing with Section 7686).

**HISTORY:** Added Stats 2022 ch 399 § 26 (AB 351), effective January 1, 2023.

#### **§ 7714.7. Operative date**

The licensing requirements of this article shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 26 (AB 351), effective January 1, 2023.

### **ARTICLE 7 PENAL PROVISIONS**

#### **Section**

7715.	Violation of chapter
7716.	Paying money to secure business
7717.	Paying or offering money for recommending cemetery
7717.5.	Paying or offering money for recommending florist
7718.	Soliciting or accepting money to obtain business
7718.5.	Unlicensed person holding self out as funeral director
7719.	Punishment

**§ 7715. Violation of chapter**

Any person, partnership, association, corporation, or other form of organization, or any agent or representative thereof, who violates any of the provisions of this chapter is guilty of a misdemeanor.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1998 ch 970 § 83 (AB 2802).

**§ 7716. Paying money to secure business**

Every funeral establishment, funeral director or embalmer, or the agents or representatives thereof, who, after a death or while a death is impending, pays, offers to pay or causes to be paid, directly or indirectly, any sum of money or other valuable consideration for the securing of business is guilty of a misdemeanor.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1941 ch 88 § 4; Stats 1996 ch 1151 § 35 (AB 2877).

**§ 7717. Paying or offering money for recommending cemetery**

Every person, who pays or causes to be paid or offers to pay to any funeral establishment, funeral director or embalmer, or to the agent, assistant or employee of either, any commission or bonus or rebate or other thing of value in consideration of the funeral establishment, funeral director or embalmer recommending or causing human remains to be disposed of in any crematory, mausoleum or cemetery, is guilty of a misdemeanor.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1996 ch 1151 § 36 (AB 2877).

**§ 7717.5. Paying or offering money for recommending florist**

Every person who pays or causes to be paid or offers to pay to any funeral establishment, funeral director or embalmer, or to the agent, assistant or employee of either, any commission or bonus or rebate or other thing of value in consideration of the funeral establishment, funeral director or embalmer recommending or causing the purchase of flowers from any particular florist or dealer in flowers, for use in connection with a funeral service, is guilty of a misdemeanor; provided, that this section shall not apply to a funeral establishment or funeral director who owns or operates a flower shop as a part of his, her or its funeral business, or to his, her or its agents or employees.

**HISTORY:** Added Stats 1953 ch 892 § 1. Amended Stats 1996 ch 1151 § 37 (AB 2877).

**§ 7718. Soliciting or accepting money to obtain business**

Every person who, after a death or while a death is impending, solicits or accepts any sum of money or other valuable consideration, directly or indirectly, from a funeral establishment, funeral director or embalmer, his, her, or its agent or representative, in order that the funeral establishment, funeral director or embalmer might obtain business, is guilty of a misdemeanor.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1941 ch 88 § 5; Stats 1996 ch 1151 § 38 (AB 2877).

**§ 7718.5. Unlicensed person holding self out as funeral director**

Every person as an individual, as a partner in a partnership or as an officer or employee of a corporation, association or other organization, who, without a license, holds himself or herself out as a funeral director, is guilty of a misdemeanor.

**HISTORY:** Added Stats 1957 ch 652 § 2. Amended Stats 1998 ch 970 § 84 (AB 2802).

**§ 7719. Punishment**

Every person guilty of a misdemeanor under the provisions of this chapter, shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1983 ch 1092 § 29, effective September 27, 1983, operative January 1, 1984.

**ARTICLE 8 REVENUE**

## Section

- 7725. Expiration of license; Renewal of unexpired license; Notice
- 7725.2. Renewal of expired license
- 7725.3. Renewal of suspended license
- 7725.4. Prohibition against renewal of revoked license
- 7725.5. License not renewed within five years; Prerequisites for new license
- 7727. Deposit of fees; Expenditure of funds

## Section

- 7729. Fee schedule
- 7729.1. Amount of fees
- 7729.2. Delinquent renewal fee
- 7729.3. Amount of original broker's license fee
- 7729.4. Payment of original broker's license fee; Reexamination fee; Nonrefundability
- 7729.5. Renewal fee for broker's license
- 7729.6. Fees if licensee is brokerage corporation
- 7729.7. Fees if licensee is brokerage copartnership
- 7729.8. Cemetery salesperson's license fee
- 7729.9. Payment of cemetery salesperson's license fee
- 7729.10. Salesperson's license renewal
- 7729.11. Filing of annual report on endowment care fund and special care fund by certificate of authority
- 7730. Branch office broker's license
- 7730.1. Registration fee for cremated remains disposers
- 7730.2. Renewal fee for cremated remains disposers
- 7730.3. Change of name or address
- 7730.4. Transfer of salesperson's license
- 7730.5. Duplicate license
- 7730.6. Reinstatement of license
- 7730.7. Crematory manager license, examination, and renewal fees
- 7730.8. Cemetery manager license, examination, and renewal fees
- 7730.9. Fee for filing report of change or sharing of designated manager
- 7730.10. Annual regulatory charge payable by cemetery authority
- 7730.11. License fee
- 7730.12. Fees
- 7731. Renewal of certificate of authority
- 7731.1. Suspension on failure to pay regulatory charge, and restoration on payment
- 7731.2. Interment in absence of certificate as misdemeanor
- 7731.3. Deposit of receipts in Cemetery and Funeral Fund
- 7731.4. Use of fund

**§ 7725. Expiration of license; Renewal of unexpired license; Notice**

A license issued under this chapter shall expire each year on the last day of the month in which the license was originally issued. To renew an unexpired license, the licenseholder shall on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the bureau, and pay the renewal fee prescribed by this chapter.

The bureau shall mail to each licensed funeral establishment, funeral director, and embalmer, addressed to him or her at his or her address of record, a notice that a renewal fee is due and payable.

**HISTORY:** Added Stats 1939 ch 39 § 1. Amended Stats 1953 ch 1033 § 10; Stats 1955 ch 731 § 1; Stats 1957 ch 651 § 1; Stats 1961 ch 1249 § 1, operative February 1, 1962; Stats 1967 ch 1338 § 7; Stats 1998 ch 970 § 85 (AB 2802); Stats 2000 ch 568 § 140 (AB 2888); Stats 2003 ch 874 § 26 (SB 363).

**§ 7725.2. Renewal of expired license**

Except as otherwise provided in this chapter, a license that has expired may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the bureau and payment of all accrued and unpaid renewal fees. If the license is not renewed within 30 days after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 7725 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

If a license is not renewed within one year following its expiration, the bureau may require as a condition of renewal that the holder of the license pass an examination on the appropriate subjects provided by this chapter.

**HISTORY:** Added Stats 1961 ch 1249 § 3, operative February 1, 1962. Amended Stats 1967 ch 1338 § 9; Stats 1978 ch 1161 § 411; Stats 1998 ch 970 § 86 (AB 2802); Stats 2000 ch 568 § 141 (AB 2888); Stats 2001 ch 306 § 9 (AB 446); Stats 2015 ch 395 § 36 (AB 180), effective January 1, 2016.

**§ 7725.3. Renewal of suspended license**

A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the holder of the license, while it remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.

**HISTORY:** Added Stats 1961 ch 1249 § 4, operative February 1, 1962. Amended Stats 1967 ch 1338 § 10.

**§ 7725.4. Prohibition against renewal of revoked license**

A revoked license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the holder of the license, as a condition precedent to its reinstatement, shall pay a

reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated plus the delinquency fee, if any, accrued at the time of its revocation.

**HISTORY:** Added Stats 1961 ch 1249 § 5, operative February 1, 1962. Amended Stats 1967 ch 1338 § 11.

#### **§ 7725.5. License not renewed within five years; Prerequisites for new license**

A license that is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter. The holder of the expired license may obtain a new license only if the holder pays all of the fees, and meets all of the requirements, other than requirements relating to education, set forth in this chapter for obtaining an original license, except that the bureau may issue a new license to the holder without examination if the holder establishes to the bureau's satisfaction that, with due regard for the public interest, the holder is qualified to engage in the activity in which the holder again seeks to be licensed. The bureau may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without examination under this section.

The provisions of this section do not apply to certificates of apprenticeship.

**HISTORY:** Added Stats 1961 ch 1249 § 6, operative February 1, 1962. Amended Stats 1998 ch 970 § 87 (AB 2802); Stats 2000 ch 568 § 142 (AB 2888); Stats 2009 ch 307 § 93 (SB 821), effective January 1, 2010.

#### **§ 7727. Deposit of fees; Expenditure of funds**

(a) On or before the 10th day of each month, the department shall pay into the State Treasury and report to the State Controller all the fees received for the bureau. The fees shall be received by the State Treasurer and placed in the Cemetery and Funeral Fund, which fund is available for expenditures necessary for the proper administration of this chapter.

(b) This section shall become operative on July 1, 2016.

**HISTORY:** Added Stats 2015 ch 395 § 38 (AB 180), effective January 1, 2016, operative July 1, 2016.

#### **§ 7729. Fee schedule**

The amount of the fees prescribed by this chapter shall be fixed according to the following schedule:

(a) The application fee for a funeral director's license shall be three hundred eighty dollars (\$380).

(b) The application fee for change of location of a funeral establishment's license shall be four hundred seventy dollars (\$470).

(c) The application fee for permission to assign a funeral establishment's license shall be five hundred sixty dollars (\$560).

(d) The license renewal fee payable by a licensed funeral director shall be three hundred eighty dollars (\$380). The fee for a delinquent renewal of a funeral director's license shall be 150 percent of the timely renewal fee.

(e) The application fee for an embalmer's license and the examination on the state's laws required under paragraph (2) of subdivision (a) of Section 7646 for the license shall be two hundred eighty dollars (\$280).

(f) The renewal fee payable by a licensed embalmer shall be one hundred ninety dollars (\$190). The fee for a delinquent renewal of an embalmer's license shall be 150 percent of the timely renewal fee.

(g) The application fee for a certificate of registration as an apprentice embalmer shall be one hundred twenty dollars (\$120).

(h) The fee for an application by a funeral establishment for approval to train apprentice embalmers and for renewal of that approval shall be one hundred ninety dollars (\$190).

(i) The application fee for a funeral director's examination shall be one hundred ninety dollars (\$190).

(j) The fee for a timely filing of an individual report or a combined report on preneed trust funds shall be five hundred dollars (\$500). The fee for a late filing of any report on preneed trust funds shall be 150 percent of the applicable timely fee.

(k) The application fee for permission to change the name appearing on a funeral establishment's license shall be three hundred dollars (\$300), and for permission to change the name on any other license or certificate, shall be twenty-five dollars (\$25).

(l) The application fee for a duplicate funeral director's license, a duplicate funeral establishment's license, a duplicate embalmer's license, or a duplicate certificate of registration as an apprentice embalmer, shall be fifty dollars (\$50).

(m) The fee for filing a report of a change of corporate officers, managers, or preneed trust fund trustees shall be fifty dollars (\$50).

(n) The application fee for a funeral establishment license shall be seven hundred fifty dollars (\$750).



(o) The license renewal fee for a licensed funeral establishment shall be seven hundred fifty dollars (\$750). The fee for a delinquent renewal of a funeral establishment license shall be 150 percent of the timely renewal fee.

**HISTORY:** Added Stats 1987 ch 682 § 2. Amended Stats 1996 ch 1151 § 39 (AB 2877); Stats 2009 ch 307 § 94 (SB 821), effective January 1, 2010; Stats 2022 ch 625 § 47 (SB 1443), effective January 1, 2023.

#### **§ 7729.1. Amount of fees**

The amount of fees prescribed for a license or certificate of authority under this act is that fixed by the following provisions of this article. Any license or certificate of authority provided under this act that has expired may be renewed within five years of its expiration upon payment of all accrued and unpaid renewal and regulatory fees.

**HISTORY:** Added Stats 2015 ch 395 § 39 (AB 180), effective January 1, 2016.

#### **§ 7729.2. Delinquent renewal fee**

The delinquent renewal fee for a license, registration, or certificate of authority under this chapter shall be 150 percent of the timely fee, but not less than the renewal fee plus twenty-five dollars (\$25).

**HISTORY:** Added Stats 2015 ch 395 § 40 (AB 180), effective January 1, 2016.

#### **§ 7729.3. Amount of original broker's license fee**

The original cemetery broker's license fee shall be seven hundred fifty dollars (\$750).

**HISTORY:** Added Stats 2015 ch 395 § 41 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 48 (SB 1443), effective January 1, 2023.

#### **§ 7729.4. Payment of original broker's license fee; Reexamination fee; Nonrefundability**

(a) The original cemetery broker's license fee is payable at the time of the filing of an application for an original cemetery broker's license.

(b) If the applicant fails the required written examination, they may be permitted to take another examination upon the filing of an application for reexamination and the payment of a reexamination fee. This reexamination fee shall be one hundred ninety dollars (\$190).

(c) No part of any original cemetery broker's license fee or reexamination fee is refundable. It is deemed earned upon receipt by the bureau, whether the accompanying application for a license is complete or incomplete.

**HISTORY:** Added Stats 2015 ch 395 § 42 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 49 (SB 1443), effective January 1, 2023.

#### **§ 7729.5. Renewal fee for broker's license**

The annual renewal fee for a cemetery broker's license shall five hundred sixty dollars (\$560).

**HISTORY:** Added Stats 2015 ch 395 § 43 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 50 (SB 1443), effective January 1, 2023.

#### **§ 7729.6. Fees if licensee is brokerage corporation**

If the licensee is a cemetery brokerage corporation, the license issued to it entitles one officer only, on behalf of the corporation, to engage in the business of a cemetery broker without the payment of a further fee, that officer to be designated in the application of the corporation for a license. For each other officer of a licensed cemetery brokerage corporation, through whom it engages in the business of a cemetery broker, the annual renewal fee, in addition to the fee paid by the corporation, shall be one hundred ninety dollars (\$190).

**HISTORY:** Added Stats 2015 ch 395 § 44 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 51 (SB 1443), effective January 1, 2023.

#### **§ 7729.7. Fees if licensee is brokerage copartnership**

If the licensee is a cemetery brokerage copartnership, the license issued to it entitles one member only of the copartnership to engage on behalf of the copartnership in the business of a cemetery broker, which member shall be designated in the application of the copartnership for a license. For each other member of the copartnership who on behalf of the copartnership engages in the business of a cemetery broker, the annual renewal fee, in addition to the fee paid by the copartnership, shall be one hundred ninety dollars (\$190).

**HISTORY:** Added Stats 2015 ch 395 § 45 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 52 (SB 1443), effective January 1, 2023.

#### **§ 7729.8. Cemetery salesperson's license fee**

The cemetery salesperson's license fee shall be sixty dollars (\$60).

**HISTORY:** Added Stats 2015 ch 395 § 46 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 53 (SB 1443), effective January 1, 2023.

**§ 7729.9. Payment of cemetery salesperson's license fee**

A cemetery salesperson's license fee is payable on each filing of an application for a cemetery salesperson's license.

**HISTORY:** Added Stats 2015 ch 395 § 47 (AB 180), effective January 1, 2016.

**§ 7729.10. Salesperson's license renewal**

The annual renewal fee for a cemetery salesperson's license shall be fifty dollars (\$50).

**HISTORY:** Added Stats 2015 ch 395 § 48 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 54 (SB 1443), effective January 1, 2023.

**§ 7729.11. Filing of annual report on endowment care fund and special care fund by certificate of authority**

The fee for a timely filing of an annual report on the endowment care fund and special care fund by a certificate of authority shall be five hundred dollars (\$500). The fee for a late filing of an annual report on the endowment care fund and special care fund shall be 150 percent of the applicable timely fee.

**HISTORY:** Added Stats 2022 ch 625 § 55 (SB 1443), effective January 1, 2023.

**§ 7730. Branch office broker's license**

For a branch office broker's license, the fee shall be one hundred ninety dollars (\$190).

**HISTORY:** Added Stats 2015 ch 395 § 49 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 56 (SB 1443), effective January 1, 2023.

**§ 7730.1. Registration fee for cremated remains disposers**

The cremated remains disposer registration fee shall be one hundred ninety dollars (\$190).

**HISTORY:** Added Stats 2015 ch 395 § 50 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 57 (SB 1443), effective January 1, 2023.

**§ 7730.2. Renewal fee for cremated remains disposers**

The renewal fee for a cremated remains disposer registration shall be one hundred dollars (\$100).

**HISTORY:** Added Stats 2015 ch 395 § 51 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 58 (SB 1443), effective January 1, 2023.

**§ 7730.3. Change of name or address**

For change of name or of address of licensee on the records of the bureau, the fee shall be twenty-five dollars (\$25).

**HISTORY:** Added Stats 2015 ch 395 § 52 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 59 (SB 1443), effective January 1, 2023.

**§ 7730.4. Transfer of salesperson's license**

For transfer of a salesperson's license on change of employer, the fee shall be fifty dollars (\$50).

**HISTORY:** Added Stats 2015 ch 395 § 53 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 60 (SB 1443), effective January 1, 2023.

**§ 7730.5. Duplicate license**

For a duplicate license the fee shall be fifty dollars (\$50).

**HISTORY:** Added Stats 2015 ch 395 § 54 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 61 (SB 1443), effective January 1, 2023.

**§ 7730.6. Reinstatement of license**

(a) For reinstatement of a license within the fiscal year, the fee shall be fifty dollars (\$50).

(b) As used in this section, "reinstatement of a license" means the reissuance of a canceled cemetery broker's license, or a cemetery salesperson's license which was canceled during the year for which it was issued upon the salesperson's withdrawal from the employ of a cemetery broker.

**HISTORY:** Added Stats 2015 ch 395 § 55 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 62 (SB 1443), effective January 1, 2023.

**§ 7730.7. Crematory manager license, examination, and renewal fees**

(a) The fee for a crematory manager examination and reexamination shall be six hundred eighty dollars (\$680).

(b) The license fee to obtain a crematory manager license shall be one hundred thirty dollars (\$130).

(c) The renewal fee for a crematory manager license shall be one hundred fifty dollars (\$150).

**HISTORY:** Added Stats 2015 ch 395 § 56 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 63 (SB 1443), effective January 1, 2023.

**§ 7730.8. Cemetery manager license, examination, and renewal fees**

- (a) The fee for a cemetery manager examination shall be eight hundred dollars (\$800).
- (b) The license fee to obtain a cemetery manager license shall be one hundred thirty dollars (\$130).
- (c) The renewal fee for a cemetery manager license shall be one hundred fifty dollars (\$150).

**HISTORY:** Added Stats 2015 ch 395 § 57 (AB 180), effective January 1, 2016. Amended Stats 2022 ch 625 § 64 (SB 1443), effective January 1, 2023.

**§ 7730.9. Fee for filing report of change or sharing of designated manager**

The fee for filing a report of a change of designated manager or a request for approval to share a designated cemetery manager shall not exceed fifty dollars (\$50).

**HISTORY:** Added Stats 2015 ch 395 § 58 (AB 180), effective January 1, 2016.

**§ 7730.10. Annual regulatory charge payable by cemetery authority**

Every cemetery authority operating a cemetery shall pay an annual regulatory charge for each cemetery of seven hundred fifty dollars (\$750). In addition to an annual regulatory charge for each cemetery, an additional quarterly charge eleven dollars and fifty cents (\$11.50) for each burial, entombment, or inurnment made during the preceding quarter shall be paid to the bureau and these charges shall be deposited in the Cemetery and Funeral Fund. If the cemetery authority performs a burial, entombment, or inurnment, and the cremation was performed at a crematory located on the grounds of the cemetery and under common ownership with the cemetery authority, the total of all additional charges shall be not more than eleven dollars and fifty cents (\$11.50).

**HISTORY:** Added Stats 2015 ch 395 § 60 (AB 180), effective January 1, 2016, operative July 1, 2016. Amended Stats 2022 ch 625 § 65 (SB 1443), effective January 1, 2023.

**§ 7730.11. License fee**

(a) The bureau shall establish the fee to obtain or renew a hydrolysis facility license, which shall not exceed the reasonable cost of license administration.

(b) Every licensee operating a hydrolysis facility pursuant to a license issued pursuant to this article shall pay an additional charge eleven dollars and fifty cents (\$11.50) per hydrolysis made during the preceding quarter, which charges shall be deposited into the Cemetery and Funeral Fund.

**HISTORY:** Added Stats 2017 ch 846 § 26 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 625 § 66 (SB 1443), effective January 1, 2023.

**§ 7730.12. Fees**

(a) On or before January 1, 2027, the bureau shall establish the fee to obtain or renew a reduction facility license, which shall be set by the bureau pursuant to subdivision (c).

(b) Every licensee operating a reduction facility shall pay an additional charge per reduction made during the preceding quarter, to be set by the bureau pursuant to subdivision (c).

(c) The bureau shall set the fees in subdivisions (a) and (b) in amounts that cumulatively do not exceed the reasonable costs of administering the licensing program. The fee for individual reductions shall not exceed eight dollars and fifty cents (\$8.50) per reduction. All fees assessed pursuant to this section shall be deposited in the Cemetery and Funeral Fund and shall be used exclusively to administer the licensing program for reduction facilities.

**HISTORY:** Added Stats 2022 ch 339 § 27 (AB 351), effective January 1, 2023.

**§ 7731. Renewal of certificate of authority**

Upon payment of the charges set forth, the bureau shall issue a renewal of the certificate of authority to the cemetery authority.

**HISTORY:** Added Stats 2015 ch 395 § 61 (AB 180), effective January 1, 2016.

**§ 7731.1. Suspension on failure to pay regulatory charge, and restoration on payment**

Failure to pay the charges set forth by Section 7730.10 prior to February 1 for each year shall be cause for suspension of the certificate of authority. The certificate may be restored upon payment to the bureau of the prescribed charges.

**HISTORY:** Added Stats 2015 ch 395 § 62 (AB 180), effective January 1, 2016.

**§ 7731.2. Interment in absence of certificate as misdemeanor**

It is a misdemeanor for any cemetery corporation to make any interments without a valid certificate of authority. Each interment shall be a separate violation.

**HISTORY:** Added Stats 2015 ch 395 § 63 (AB 180), effective January 1, 2016.

**§ 7731.3. Deposit of receipts in Cemetery and Funeral Fund**

(a) All moneys received by the bureau under the provisions of this chapter shall be accounted for and reported by detailed statements furnished by the bureau to the Controller at least once a month, and at the same time these moneys shall be remitted to the Treasurer, and, upon order of the Controller, shall be deposited in the Cemetery and Funeral Fund in the State Treasury, which fund is hereby created.

(b) This section shall become operative on July 1, 2016.

**HISTORY:** Added Stats 2015 ch 395 § 65 (AB 180), effective January 1, 2016, operative July 1, 2016.

**§ 7731.4. Use of fund**

(a) All moneys paid into the State Treasury and credited to the Cemetery and Funeral Fund shall be expended in accordance with law for the payment of all actual and necessary expenses incurred in carrying out the provisions of this act.

(b) This section shall become operative on July 1, 2016.

**HISTORY:** Added Stats 2015 ch 395 § 67 (AB 180), effective January 1, 2016, operative July 1, 2016.

**ARTICLE 9 PRENEED FUNERAL ARRANGEMENTS**

## Section

- 7735. Preneed contracts; Moneys or securities to be held in trust; Use of corpus; Trustee's fee
- 7735.5. Preneed funeral arrangement contract to clearly state unavailable or limited benefits
- 7736. Governing definitions
- 7737. Deposit of securities or moneys in trust; Provisions of trust agreement; Relief of trustee from liability [Repealed]
- 7737.1. Duties of funeral establishment that intends to cease engaging in business operations
- 7737.2. Forms required by Section 7737.1; Creation; Posting; Regulations for proof of notice required by Section 7737.1; Posting
- 7737.3. Audit of commingled preneed trust funds; Report of noncompliance
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- 7738. Commingling preneed funeral arrangement funds and special endowment care funds prohibited
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- 7741. Inapplicability to cemetery property or services or to delivered merchandise
- 7742. Issuance of corporate securities under permit
- 7745. Provision of copy of preneed agreement to survivor or responsible party; Penalty for knowing failure to provide
- 7746. Declaration of nonreporting status to be filed annually with bureau

**HISTORY:** Added Stats 1965 ch 1414 § 1.

**§ 7735. Preneed contracts; Moneys or securities to be held in trust; Use of corpus; Trustee's fee**

No funeral establishment licensed under the laws of the State of California, or the agents or employees of a funeral establishment, shall enter into or solicit any preneed arrangement, contract, or plan, hereinafter referred to as "contract," requiring the payment to the licensee of money or the delivery to the licensee of securities to pay for the final disposition of human remains or for funeral services or for the furnishing of personal property or funeral merchandise, wherein the use or delivery of those services, property or merchandise is not immediately required, unless the contract requires that all money paid directly or indirectly and all securities delivered under that agreement or under any agreement collateral thereto, shall be held in trust for the purpose for which it was paid or delivered until the contract is fulfilled according to its terms; provided, however, that any payment made or securities deposited pursuant to this article shall be released upon the death of the person for whose benefit the trust was established as provided in Section 7737. The income from the trust may be used to pay for a reasonable annual fee for administering the trust, including a trustee fee to be determined by the bureau, and to establish a reserve of not to exceed 10 percent of the corpus of the trust as a revocation fee in the event of cancellation on the part of the beneficiary. The annual fee for trust administration may be recovered by withdrawals from accumulated trust income, provided that total withdrawals for this purpose shall not exceed the amount determined by the bureau. In no case shall the total amount with-

drawn in a year for trust administration exceed the total amount of posted trust income for the immediate 12 preceding months. In addition to annual fees and reserves authorized by this section, a trustee may, at its election, pay taxes on the earnings on any trust pursuant to Section 17760.5 of the Revenue and Taxation Code. In no event, however, shall taxes paid on the earnings of any trust be considered part of the fees or reserves authorized by this section. All remaining income shall be accumulated in trust.

None of the corpus of the trust shall be used for payment of any commission nor shall any of the corpus of the trust be used for other expenses of trust administration, or for the payment of taxes on the earnings of the trust.

**HISTORY:** Added Stats 1965 ch 1414 § 1. Amended Stats 1976 ch 961 § 4; Stats 1996 ch 1151 § 40 (AB 2877); Stats 1998 ch 970 § 89 (AB 2802); Stats 1999 ch 241 § 3 (AB 1379); Stats 2000 ch 757 § 1 (AB 2079).

#### **§ 7735.5. Preneed funeral arrangement contract to clearly state unavailable or limited benefits**

The preneed funeral arrangement contract shall clearly state if benefits are unavailable or limited for any reason.

**HISTORY:** Added Stats 2001 ch 715 § 4 (AB 1277).

#### **§ 7736. Governing definitions**

For the purposes of this article the term “trustee” shall mean any banking institution or trust company legally authorized and empowered by the State of California to act as trustee in the handling of trust funds or not less than three persons one of whom may be an employee of the funeral establishment; the word “trustor” shall mean any person who pays the money or deposits the securities used for those preneed arrangements; the term “beneficiary” shall be the person for whom the funeral services are arranged; the words “corpus of the trust” shall include all moneys paid and securities delivered by the trustor pursuant to the provisions of the article.

**HISTORY:** Added Stats 1965 ch 1414 § 1. Amended Stats 1968 ch 925 § 1; Stats 1976 ch 961 § 5; Stats 1996 ch 1151 § 41 (AB 2877); Stats 2000 ch 757 § 2 (AB 2079).

#### **§ 7737. Deposit of securities or moneys in trust; Provisions of trust agreement; Relief of trustee from liability [Repealed]**

**HISTORY:** Added Stats 1965 ch 1414 § 1. Amended Stats 1968 ch 925 § 2; Stats 1976 ch 961 § 6; Stats 1982 ch 1520 § 1, effective September 30, 1982; Stats 1996 ch 1151 § 42 (AB 2877); Stats 2021 ch 514 § 1 (AB 293), effective January 1, 2022, repealed January 1, 2023.

#### **§ 7737. Deposit of securities or moneys in trust; Provisions of trust; Relief of trustee from liability; Transfer of agreements; Return of funds**

(a) All securities purchased by the trustor for deposit in trust and all money received from the trustor for deposit in trust shall be placed in trust with a trustee within 30 days of their receipt by the funeral establishment pursuant to a trust agreement executed by the funeral establishment, the trustor, and the trustee. The trust agreement shall provide that the trustee shall hold the money or securities in trust for the purposes for which it was deposited.

(b) The trust agreement shall provide that the trustee, upon the signature of a majority of the trustees, shall deliver the corpus of the trust and any income accrued in the trust, including interest, dividends, and capital gains, as follows:

(1) To the funeral establishment upon the filing of a certified copy of the death certificate or other satisfactory evidence of the death of the beneficiary, together with satisfactory evidence that the funeral establishment has furnished the merchandise and services. In the case of a trust agreement between any of the trustees set forth in Section 7736 and a recipient of public assistance under subdivision (a) of Section 11158 of, or paragraph (1) of subdivision (e) of Section 12152 of, the Welfare and Institutions Code, and if the value limitations of those sections are not exceeded, the trust agreement may further provide that it is irrevocable.

(2) To the trustor or legally appointed representative of the trustor at any time before the funeral establishment has furnished the merchandise and services provided for in the contract if the trustor or the legally appointed representative demands in writing the return of the corpus of the trust, together with any income accrued in the trust, less a revocation fee not to exceed the amount reserved pursuant to Section 7735, provided, however, that if and when the trustor becomes otherwise eligible, or in order to become eligible, for public social services, as provided in Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, the trustor may agree, at the trustor's option, that the trust shall be irrevocable



in order to avail themselves of the provisions of Section 11158 or 12152 of the Welfare and Institutions Code.

(3) In accordance with the Unclaimed Property Law (Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure), funds held in a preneed funeral trust or similar account or plan escheat to the state if the conditions in Section 1518.5 of the Code of Civil Procedure are satisfied.

(4) A funeral establishment shall report and pay or deliver, or cause the trustee to release for payment or delivery, to the Controller all unclaimed preneed funeral trust funds, as determined pursuant to Section 1518.5 of the Code of Civil Procedure. The amount to be paid or delivered shall be the corpus of the trust, together with any income accrued, less a revocation fee not to exceed the amount reserved pursuant to Section 7735.

(c)(1) A funeral establishment that intends to cease engaging in business operations, as authorized under this chapter, by reason of dissolution, closure, sale, or revocation may transfer its preneed funeral agreements to another funeral establishment only if that successor funeral establishment is licensed pursuant to this chapter and the transfer satisfies the requirements of paragraph (2).

(2) A funeral establishment shall not transfer its preneed funeral agreements to another funeral establishment that is located 60 or more miles away without prior written approval of the beneficiaries or trustors, or legal representatives of the beneficiaries or trustors, and the trustee.

(d)(1) All funds, including accrued income, maintained in a preneed funeral trust or similar account or plan held by a trustee for a funeral establishment that has been dissolved, sold, or closed, or had its license revoked shall be returned to the beneficiary, the trustor, or the legal representative of either the beneficiary or trustor according to either of the following:

(A) If the funeral establishment does not transfer its preneed funeral agreements to a licensed successor funeral establishment pursuant to subdivision (c), all funds, without deduction of a revocation fee, shall be returned within 30 days of the beneficiary, trustor, or their legal representative providing written notice to the trustee, pursuant to subdivision (b) of Section 7737.1, to return those funds.

(B) If the funeral establishment transfers its preneed funeral agreements to a licensed successor funeral establishment pursuant to subdivision (c), the funds shall be returned within 30 days of the beneficiary, trustor, or their legal representative canceling the agreement pursuant to subdivision (a) of Section 7737.1.

(2) If, pursuant to subparagraph (A) of paragraph (1), the funeral establishment or trustee is unable to locate the beneficiary or trustor, or the legal representative of either the beneficiary or trustor, or if the beneficiary or trustor, or their legal representative, does not provide written direction to the trustee to return the funds to them within six months of receiving the notice in subdivision (b) of Section 7737.1, the funeral establishment shall report and pay or deliver or cause the trustee to release for payment or delivery all funds together with accrued income, and these funds shall escheat to the state in accordance with the Unclaimed Property Law (Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure), except that the revocation fee pursuant to Section 7735 shall not be retained by the funeral establishment.

(3) If the preneed funeral agreement is canceled pursuant to subparagraph (B) of paragraph (1), the revocation fee pursuant to Section 7735 of the Business and Professions Code shall not be retained by the funeral establishment.

(e) The escheatment of preneed funeral trust funds to the Controller shall release the funeral establishment from the obligation of furnishing the personal property, funeral merchandise, or services originally arranged in the preneed agreement associated with the trust. However, if the funeral establishment provided personal property, or funeral merchandise or services to the beneficiary after funds have been escheated, the funeral establishment shall be entitled to recover the escheated funds upon submission to the Controller of a death certificate and a statement detailing the personal property or funeral merchandise or services provided pursuant to Section 1560 of the Code of Civil Procedure.

(f) Nothing in this section, the Unclaimed Property Law (Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure), or any other law or regulation shall require escheatment of any funds received by a funeral establishment, cemetery, or other person from property or funeral merchandise or services provided under Chapter 4 (commencing with Section 8600) of Part 3 of Division 8 of the Health and Safety Code.

(g) A trustee or a funeral establishment shall not charge the trust, a trustor, or a beneficiary any fees or costs associated with a search or verification conducted pursuant to this section. However, a trustee or funeral establishment may incorporate fees or costs associated with a search or verification as part of the administration of the trust pursuant to Section 7735.

(h) The delivery of the corpus of the trust and the income accrued to the trust to the funeral establishment, the trustor, the beneficiary, or the Controller pursuant to this article shall relieve the trustee of any further liability with regard to those funds.

(i) This section shall become operative on January 1, 2023.

**HISTORY:** Added Stats 2021 ch 514 § 2 (AB 293), effective January 1, 2022, operative January 1, 2023.

**§ 7737.1. Duties of funeral establishment that intends to cease engaging in business operations**

(a)(1) For purposes of Section 7737, a funeral establishment that intends to cease engaging in business operations, as authorized under this chapter, by reason of dissolution, closure, sale, or revocation and that intends to transfer its preneed funeral agreements to a licensed successor funeral establishment, pursuant to subdivision (c) of Section 7737, shall provide written notice, as described in paragraph (2), at least 60 days prior to the cessation of operations to both of the following:

(A) The beneficiaries or trustors, or legal representatives of the beneficiaries or trustors, of the preneed funeral agreements associated with the funeral establishment ceasing business operations.

(B) The trustees holding the preneed funeral trusts associated with the preneed funeral agreements.

(2) The notice provided pursuant to paragraph (1) shall meet all of the following requirements:

(A) The notice shall be on a form created by the bureau pursuant to Section 7737.2.

(B) The notice shall inform the recipients that their preneed funeral agreements will be transferred and fulfilled by the licensed successor funeral establishment.

(C) The notice shall inform the beneficiaries or trustees, or their legal representatives, that they may cancel their agreement up to 60 days after receipt of the notice by contacting the trustee, the funeral establishment ceasing business operations, or the licensed successor funeral establishment.

(3) The funeral establishment ceasing business operations shall provide the bureau with a copy of the notice provided pursuant to this paragraph and with a list of all preneed funeral agreements transferred to the licensed successor funeral establishment prior to the cessation of business operations.

(4)(A) The funeral establishment ceasing business operations shall provide the licensed successor funeral establishment with a copy of the notice provided, and proof that the notice was provided, to the beneficiaries or trustees, or their legal representatives, prior to the cessation of business operations.

(B) The licensed successor funeral establishment shall retain a copy of the notice provided, and proof that the notice was provided, to the beneficiaries or trustors, or their legal representatives, and provide a copy of both to the bureau upon the bureau's request.

(C) The proof required by this paragraph shall be in compliance with the regulations adopted by the bureau pursuant to Section 7737.2.

(b)(1) For purposes of Section 7737, a funeral establishment that intends to cease engaging in business operations, as authorized under this chapter, by reason of dissolution, closure, sale, or revocation without a transfer of the preneed funeral agreements to a licensed, successor funeral establishment shall give written notice, as described in paragraph (2), at least 60 days prior to the cessation of operations to all of the following:

(A) The bureau.

(B) The beneficiaries or trustors of the preneed funeral agreements associated with the original funeral establishment.

(C) The trustees holding the preneed funeral trusts associated with the preneed funeral agreements.

(2) The notice provided pursuant to paragraph (1) shall meet all of the following requirements:

(A) The notice shall be on a form created by the bureau pursuant to Section 7737.2.

(B) The notice shall inform the recipients that their preneed funeral agreements will be canceled and the funds, including the accrued income, will be escheated to the state unless the beneficiary or trustor informs the trustee in writing within six months of receiving the notice that they wish those funds to be returned to them.

(c) This section shall become operative on January 1, 2023.

**HISTORY:** Added Stats 2021 ch 514 § 3 (AB 293), effective January 1, 2022, operative January 1, 2023.

**§ 7737.2. Forms required by Section 7737.1; Creation; Posting; Regulations for proof of notice required by Section 7737.1; Posting**

(a) The bureau shall create, and post on its internet website, the forms required by Section 7737.1 by January 1, 2023.

(b) The bureau shall adopt and post on its internet website, by January 1, 2023, regulations regarding the type of proof of notice the funeral establishment ceasing operations and the licensed successor funeral establishment are required to provide or retain for purposes of paragraph (4) of subdivision (a) of Section 7737.1.

**HISTORY:** Added Stats 2021 ch 514 § 4 (AB 293), effective January 1, 2022.

**§ 7737.3. Audit of commingled preneed trust funds; Report of noncompliance**

All commingled preneed trust funds held by a funeral establishment shall be subject to an annual, independent certified financial audit with a copy of the audit to be submitted to the bureau for review within 120 days of the close of the fund's fiscal year. Any findings of noncompliance with existing law regarding preneed trust funds shall be identified by the auditor in a separate report for review and action by the bureau. Audits and reports of noncompliance shall be filed simultaneously.

**HISTORY:** Added Stats 1992 ch 797 § 4 (AB 3746). Amended Stats 1996 ch 1151 § 43 (AB 2877); Stats 1998 ch 970 § 90 (AB 2802); Stats 2000 ch 568 § 144 (AB 2888).

**§ 7737.5. Deposit in federally insured association**

A trustee may deposit the corpus of the trust in any financial institution insured by the Federal Deposit Insurance Corporation.

**HISTORY:** Added Stats 1968 ch 925 § 3. Amended Stats 1998 ch 970 § 91 (AB 2802).

**§ 7737.7. Deposit in insured credit union**

A trustee may deposit the corpus of the trust in any credit union which is insured by the National Credit Union Share Insurance Fund.

**HISTORY:** Added Stats 1987 ch 764 § 1.

**§ 7738. Commingling preneed funeral arrangement funds and special endowment care funds prohibited**

A licensed funeral establishment that is also a licensed cemetery authority shall not deposit any money or securities received in connection with preneed funeral arrangements in a special endowment care fund as provided in Article 4 (commencing with Section 8775) of Chapter 5 of Part 3 of Division 8 of the Health and Safety Code, nor shall a licensed funeral establishment permit the deposit of any money or securities received in connection with a special endowment care fund into a preneed funeral trust fund. Nothing in this section shall require the liquidation or conversion of any lawful investment existing on December 31, 1981.

**HISTORY:** Added Stats 1981 ch 655 § 2. Amended Stats 1996 ch 1151 § 44 (AB 2877).

**§ 7739. Violation as misdemeanor and ground for disciplinary action**

Any person willfully violating the provisions of this article or any of them shall be punishable either by imprisonment in a county jail for a period not exceeding six months, or by fine not exceeding five hundred dollars (\$500), or by both imprisonment and fine, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or two or three years. If the violator is a funeral establishment licensee, he or she shall also be subject to disciplinary action as provided in Article 6 (commencing with Section 7686).

**HISTORY:** Added Stats 1965 ch 1414 § 1. Amended Stats 1981 ch 655 § 3; Stats 1996 ch 1151 § 45 (AB 2877); Stats 2011 ch 15 § 19 (AB 109), effective April 4, 2011, operative October 1, 2011.

**§ 7740. Regulations**

The bureau is authorized to enforce of its own initiative the provisions of this article and may adopt such rules and regulations as in its opinion may be necessary to perform such duties and to safeguard the trust funds subject to this chapter.

**HISTORY:** Added Stats 1965 ch 1414 § 1. Amended Stats 1998 ch 970 § 92 (AB 2802); Stats 2000 ch 568 § 145 (AB 2888).

**§ 7740.5. Payment of fee on filing report**

A funeral establishment shall pay to the bureau the fee fixed by this chapter for filing with the bureau any report on preneed trust funds required by rules and regulations of the bureau adopted pursuant to Section 7740.

**HISTORY:** Added Stats 1967 ch 1338 § 13. Amended Stats 1996 ch 1151 § 46 (AB 2877); Stats 1998 ch 970 § 93 (AB 2802); Stats 2000 ch 568 § 146 (AB 2888).

**§ 7741. Inapplicability to cemetery property or services or to delivered merchandise**

Nothing in this article shall apply to cemetery property; cemetery commodities; cemetery service; or merchandise that is delivered as soon as paid for.

**HISTORY:** Added Stats 1965 ch 1414 § 1.

**§ 7742. Issuance of corporate securities under permit**

Nothing in this article shall apply to any arrangement, contract, or plan for the issuance of securities now or hereafter authorized under a permit of the Commissioner of Financial Protection and Innovation of this state.

**HISTORY:** Added Stats 1965 ch 1414 § 1. Amended Stats 2019 ch 143 § 4 (SB 251), effective January 1, 2020; Stats 2022 ch 452 § 7 (SB 1498), effective January 1, 2023.

**§ 7745. Provision of copy of preneed agreement to survivor or responsible party; Penalty for knowing failure to provide**

Every funeral establishment shall present to the survivor of the deceased who is handling the funeral arrangements or the responsible party a copy of any preneed agreement which has been signed and paid for in full, or in part by, or on behalf of the deceased and is in the possession of the funeral establishment. The copy may be presented in person, by certified mail, or by facsimile transmission, as agreed upon by the survivor of the deceased or the responsible party. A funeral establishment that knowingly fails to present a preneed agreement to the survivor of the deceased or the responsible party shall be liable for a civil fine equal to three times the cost of the preneed agreement, or one thousand dollars (\$1,000), whichever is greater.

**HISTORY:** Added Stats 1992 ch 797 § 5 (AB 3746). Amended Stats 1996 ch 1151 § 47 (AB 2877).

**§ 7746. Declaration of nonreporting status to be filed annually with bureau**

(a) Notwithstanding any other provision of law, a funeral establishment that is otherwise exempt from the requirement of filing an annual preneed trust report or whose preneed trust funds are reported in a combined preneed annual preneed trust report, shall annually file a declaration of nonreporting status with the bureau.

(b) The declaration shall be filed on or before May 1 of each year and shall also be filed upon the transfer of ownership or the cessation of business.

(c) The declaration shall be filed on a form provided by the bureau and shall include, but shall not be limited to, both of the following:

(1) The basis upon which the funeral establishment is exempt from the annual trust reporting requirement.

(2) The specific kind and nature of the exempt preneed arrangements, if any, in which the funeral establishment engages.

(d) The declaration shall be verified by the funeral establishment's owner, a partner, or in the case of a corporation, by the president or vice president.

**HISTORY:** Added Stats 2002 ch 825 § 4 (SB 1952).

# CALIFORNIA CODE OF REGULATIONS

## TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS

### Division 12. Cemetery and Funeral Bureau

- Article 1. General Provisions
- Article 1.5. Funeral Director
- Article 2. Funeral Establishments
- Article 3. Embalming
- Article 4. Apprentices
- Article 5. Embalmer's Licenses
- Article 5.5. Citations, Fines and Orders of Abatement
- Article 6. Procedure Before the Bureau
- Article 7. Miscellaneous
- Article 8. Preneed Funds and Disclosure of Preneed Agreements
- Article 9. Continuing Education Requirements [Repealed]

### Article 1. General Provisions

- § 1200. Location of Offices. [Repealed]
- § 1201. Tenses, Gender, and Number. [Repealed]
- § 1202. Delegation of Certain Functions.
- § 1203. Filing of Addresses.

#### § 1200. Location of Offices. [Repealed]

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7735-7742, Business and Professions Code.

#### HISTORY:

1. Amendment filed 11-14-57; effective thirtieth day thereafter (Register 57, No. 20).
2. Amendment of NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
3. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
4. Change without regulatory effect amending division heading filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

#### § 1201. Tenses, Gender, and Number. [Repealed]

#### HISTORY:

1. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

#### § 1202. Delegation of Certain Functions.

The power and discretion conferred by law upon the bureau to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing and perform other functions necessary to the business-like dispatch of the business of the bureau in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon the bureau chief.

NOTE: Authority cited: Sections 7602 and 7606, Business and Professions Code. Reference: Sections 7602 and 7606, Business and Professions Code; and Section 11500 et seq., Government Code.

#### HISTORY:

1. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
2. Change without regulatory effect amending section and Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

#### § 1203. Filing of Addresses.

Each person holding a certificate of registration, license, permit or any other authority to practice or engage in any activity in the State of California under any and all laws administered by the bureau shall file his or her proper and current mailing address with the bureau at its office in Sacramento and shall immediately notify the bureau at its said office of any and all changes of mailing address, giving both his or her old and his or her new address.



NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Section 7606, Business and Professions Code.

**HISTORY:**

1. Change without regulatory effect amending section and adding Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**Article 1.5. Funeral Director**

§ 1204. Management of Funeral Establishment.

§ 1205. Review of Funeral Director License Applications; Processing Time.

**§ 1204. Management of Funeral Establishment.**

(a) Any person, association, partnership, corporation or other organization licensed and conducting business as a funeral establishment shall designate a licensed funeral director to manage the establishment, and shall report the designation to the bureau within ten (10) days of the effective date of the designation.

(b) The designated managing licensed funeral director of a licensed funeral establishment shall be responsible for exercising such direct supervision and control over the conduct of said funeral establishment as is necessary to ensure full compliance with the Funeral Directors and Embalmers Law, the provisions of this chapter and the applicable provisions of the Health and Safety Code. Failure of the designated managing licensed funeral director and/or the licensed funeral establishment to exercise such supervision or control, or failure of the holder of the funeral establishment license to make such designation shall constitute a ground for disciplinary action.

(c) A licensed funeral establishment may, upon approval by the bureau, designate a licensed funeral director to manage more than one (1) facility under the following conditions:

(1) the licensed funeral establishments are under common ownership, and;

(2) the common owners have designated one (1) funeral establishment as the main office. The main office is defined as a designated location registered with the bureau where the principals of the funeral establishment can be contacted, and;

(3) the remaining establishment must be within a sixty (60) mile radius of the main office, and;

(4) the licensed funeral establishments requesting permission from the bureau to use one (1) designated managing licensed funeral director, must make a written request, on a form 21F-12 (4/93) provided by the bureau. An inspection shall be scheduled and completed to ensure that the conditions set forth in this section have been satisfied.

(d) A funeral director who advertises his or her services shall hold a current, active license, and shall include his or her license number, the name and license number of the funeral establishment at which he or she is employed, and the name of the city or community where the funeral establishment is located on any television and print advertising including, but not limited to, telephone and other directory listings, and newspaper and magazine advertisements.

NOTE: Authority cited: Sections 7606 and 7616.2, Business and Professions Code. Reference: Sections 7606, 7616, 7616.2, 7618, 7619, 7620, 7621 and 7622, Business and Professions Code.

**HISTORY:**

1. New article 1.5 (sections 1204-1205) and section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).

2. Change without regulatory effect amending subsections (a), (c) and (c)(2)-(4) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1205. Review of Funeral Director License Applications; Processing Time.**

(a) The bureau shall inform an applicant for a funeral director license, in writing, within seven (7) 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.

(b) The bureau 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 licensure. "Completion of an application" means that a completed application form together with all required information, documentation and fees has been filed by the applicant.

(c) The minimum, median and maximum processing times for an application for a funeral director license from the date of acceptance and filing of the initial application until the bureau makes a final decision on the application are:

(1) Minimum—one (1) day.

(2) Median—ten (10) days.

**(3) Maximum—sixty (60) days.**

NOTE: Authority cited: Section 7615, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 7615, 7618, 7619, 7621 and 7622, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**Article 2. Funeral Establishments**

- § 1208. Application for Funeral Establishment License.
- § 1208.1. Review of Funeral Establishment License Applications; Processing Time.
- § 1209. Hearses and First-Call or Pickup Cars.
- § 1210. Funeral Establishment License, Possession of.
- § 1211. Name of Funeral Establishment.
- § 1212. Manager of Funeral Establishment. [Repealed]
- § 1213. Change in Corporate Officers, Designated Managing Funeral Director, or Ownership.

**§ 1208. Application for Funeral Establishment License.**

Within ten (10) days after the receipt of an application for a funeral establishment license, notice of such filing shall be sent to such persons and organizations as the bureau chief may deem expedient, located at or near the place where such applicant proposes to engage in business as a funeral establishment, and to such other persons or organizations that may request such information.

NOTE: Authority cited: Sections 7602 and 7606, Business and Professions Code. Reference: Sections 7602, 7617, 7617.1, 7619.3 and 7621, Business and Professions Code.

**HISTORY:**

1. Originally published 12-5-46 (Title 16).
2. Amendment filed 11-4-47 as an emergency (Register 10, No. 2).
3. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
4. Change without regulatory effect amending article heading filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).
5. Amendment of section heading, section and Note filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
6. Change without regulatory effect amending section and Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1208.1. Review of Funeral Establishment License Applications; Processing Time.**

(a) The bureau shall inform an applicant for licensure as a funeral establishment, in writing, within ten (10) days whether the application is complete and accepted for filing or is deficient and what specific information is required to complete the application.

(b) The bureau shall make a decision within ninety (90) days after the date the application is deemed to be completed whether the applicant meets the requirements for licensure. "Completion of an application" means that a completed application form, together with all required information, documentation and fees, has been filed by the applicant. This period may be extended if the applicants' proposed facility is not ready for or fails to pass any required inspection.

(c) The minimum, median and maximum processing times for an application for licensure as a funeral establishment from the date of acceptance and filing of the initial application until the bureau makes a final decision on the application are:

- (1) minimum—forty (40) days.
- (2) median—seventy (70) days.
- (3) maximum—ninety (90) days.

NOTE: Authority cited: Section 7606, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 7618-7627, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. New section filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
2. Amendment of section heading and section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
3. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1209. Hearses and First-Call or Pickup Cars.**

All hearses and first-call or pickup cars under the control and operation of the funeral establishment and the equipment therein shall be kept clean and sanitary and free from noxious or deleterious odors at all times. Such vehicles shall be cleansed with a suitable and effective disinfectant, immediately after being used to transport human remains dead of any contagious disease, or as soon thereafter as practical, so as not to endanger the public health or safety.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606 and 7707, Business and Professions Code.

**HISTORY:**

1. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
2. Change without regulatory effect amending section filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).
3. Amendment of section heading and section filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 1210. Funeral Establishment License, Possession of.**

The certificate of licensure shall remain the property of the State of California, in possession of the licensee only so long as he/she or it exercises the license at the location specified in the license, and said certificate shall be surrendered to the bureau upon change of address, change of name, assignment or upon discontinuance of business at the specified address. This rule shall not prevent a licensed funeral director from conducting a funeral in another licensed establishment, nor shall it prevent a licensed funeral director from conducting a funeral at a church, cemetery, home, public hall, lodge room, or other suitable place.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7617, 7620, 7624, 7625 and 7628, Business and Professions Code.

**HISTORY:**

1. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
2. Change without regulatory effect amending section heading filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).
3. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1211. Name of Funeral Establishment.**

(a) A funeral establishment shall include its name and license number, exactly as shown by the bureau's records, and city or community where located in all television and print advertisements, including but not limited to telephone and other directory listings, television, newspaper and magazine advertisements.

(b) Each applicant for a funeral establishment license shall select one (1) specific trade name under which the license is to be issued and held. Such trade name may not include "also known as" ("aka") designations, but must be a word or group of words combined to form one specific trade name.

(c) A funeral establishment shall not operate under a name utilizing an "also known as" ("aka") designation, or which bears two (2) or more separate and distinct name styles.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Section 7629, Business and Professions Code.

**HISTORY:**

1. Amendment filed 11-14-57; effective thirtieth day thereafter (Register 57, No. 20).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
4. Amendment filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
5. Change without regulatory effect amending subsections (a)-(b) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1212. Manager of Funeral Establishment. [Repealed]**

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7618, 7619, 7620, 7621, and 7622, Business and Professions Code.

**HISTORY:**

1. New section filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
2. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
3. Repealer filed 10-31-97; operative 11-30-97 (Register 97, No. 44).

**§ 1213. Change in Corporate Officers, Designated Managing Funeral Director, or Ownership.**

(a) Where there is a change in the corporate officers or the designated managing licensed funeral director of a funeral establishment, such change, including the names and titles of the new corporate officers or the name of

the new designated managing licensed funeral director, shall be reported to the bureau, in writing, within ten (10) days of such change on the form NC1 (12/93) prescribed by the bureau accompanied by the fee fixed by this division.

(b) Any transfer, in a single transaction or in a related series of transactions, of more than fifty percent (50%) of the equitable interest in the ownership of a licensed funeral establishment shall constitute a change of ownership and shall require assignment of the funeral establishment license, subject to the provisions of Section 7630, Division 3, Chapter 12, Article 2 of the Business and Professions Code. Such proposed change shall be reported to the bureau no later than thirty (30) days prior to the effective date thereof, however, no public notice shall be given by the bureau until after the effective date of the transaction.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7618, 7619, 7622 and 7630, Business and Professions Code.

**HISTORY:**

1. New section filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
2. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
3. Amendment of section heading and section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
4. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

### Article 3. Embalming

- § 1214. Authorization to Accept or Decline Embalming.
- § 1215. Attire While Embalming.
- § 1216. Sanitation.
- § 1217. Preparation or Storage Room and Destruction of Waste Materials. [Repealed]
- § 1218. Sanitary Condition of Mortuaries. [Repealed]
- § 1219. Embalming Table. [Repealed]
- § 1220. Ventilation of Preparation Room. [Repealed]
- § 1221. Care and Preparation for Burial.
- § 1222. Embalming Fluids.
- § 1223. Embalming, Preparation and Storage Rooms.
- § 1223.1. Shared Preparation and Storage Rooms.
- § 1224. Equipment Requirements. [Repealed]

#### § 1214. Authorization to Accept or Decline Embalming.

Except as otherwise provided in Health and Safety Code section 7304, human remains shall not be embalmed without the express authorization of a person having the legal right to control disposition of the remains. Such authorization, to either accept or decline embalming, shall be secured by use of form 12-AUTH (rev. 11/14) prescribed by the bureau and made a part of this regulation. The form shall be used in the exact form set forth below, without additions, substitutions, or amendments, and may be either a separate form or combined with another form.

## AUTHORIZATION TO ACCEPT OR DECLINE EMBALMING

TO: \_\_\_\_\_  
(Funeral Establishment Name)RE: \_\_\_\_\_  
(Decedent)

Embalming is the addition to, or the replacement of, body fluids by chemical preservatives or the application of chemical preservatives for the temporary preservation of the body. **I understand that embalming is not required by law.**

I, \_\_\_\_\_, do \_\_\_ do not \_\_\_ (check one) request embalming.  
I understand that for storage or embalming purposes the decedent may be transported to the following location:

\_\_\_\_\_  
(Location Name and Address)

The undersigned hereby represents that he/she has the legal right to control disposition of the remains of the decedent.

Signed: \_\_\_\_\_, Relationship to Decedent: \_\_\_\_\_

Executed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_.  
(Month) (Year) (City and State)

This section is to be completed by the funeral establishment if authorization to accept or decline embalming is obtained orally.

The above statement regarding embalming and storage was read and/or provided to \_\_\_\_\_, Relationship to Decedent: \_\_\_\_\_,  
who did ☐ did not \_\_\_ (check one) authorize embalming at the above named funeral establishment. Telephone Number: \_\_\_\_\_  
Date and time authorization granted: \_\_\_\_\_

This section is to be completed by the funeral establishment representative who is executing this authorization to accept or decline embalming.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_.  
(Month) (Year) (City and State)\_\_\_\_\_  
Funeral Establishment Representative (Print Name)\_\_\_\_\_  
Funeral Establishment Representative (Signature)



NOTE: Authority cited: Sections 7606 and 7616, Business and Professions Code. Reference: Section 7606, Business and Professions Code.

**HISTORY:**

1. New section filed 6-22-79; effective thirtieth day thereafter (Register 79, No. 25).
2. Amendment filed 7-3-80; effective thirtieth day thereafter (Register 80, No. 27).
3. Amendment of section and Note filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
4. Change without regulatory effect amending first paragraph filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).
5. Amendment of section heading and section filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 1215. Attire While Embalming.**

Every person, while engaged in actually embalming human remains, shall be attired in a clean and sanitary smock or gown covering the person from neck to below the knees, and shall, while so engaged, wear impervious gloves; and the body being embalmed shall at all times be so covered as to insure the privacy of said body.

**History**

1. Change without regulatory effect amending section filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).

**§ 1216. Sanitation.**

(a) All preparation, embalming, storage room, and refrigeration facilities shall, at all times, be kept and maintained in a clean and sanitary condition.

(b) Every preparation, embalming, storage room, and refrigeration facility shall be provided with proper and convenient receptacles for refuse, bandages, cotton and other waste materials and supplies. All such waste materials shall be disposed of in accordance with State and local health and sanitation requirements or in such a manner as not to endanger the public health and safety.

(c) All instruments, appliances and equipment used in the embalming or other preparation and handling of human remains shall be thoroughly cleansed and disinfected immediately at the conclusion of each individual case.

(d) All areas of a funeral establishment which are open to public use or occupancy shall be kept and maintained in a clean and orderly condition so as not to endanger the public health and safety.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606 and 7707, Business and Professions Code.

**HISTORY:**

1. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
2. Change without regulatory effect amending subsection (c) filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).
3. Amendment of subsections (a) and (b) filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 1217. Preparation or Storage Room and Destruction of Waste Materials. [Repealed]****HISTORY:**

1. Amendment filed 11-14-57; effective thirtieth day thereafter (Register 57, No. 20).
2. Amendment filed 2-11-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 7).
3. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1218. Sanitary Condition of Mortuaries. [Repealed]****HISTORY:**

1. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1219. Embalming Table. [Repealed]****HISTORY:**

1. Amendment filed 11-14-57; effective thirtieth day thereafter (Register 57, No. 20).
2. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1220. Ventilation of Preparation Room. [Repealed]****HISTORY:**

1. Repealer filed 2-29-56; effective thirtieth day thereafter (Register 56, No. 4). Refiled 6-13-56 (Register 56, No. 12).

**§ 1221. Care and Preparation for Burial.**

(a) The care and preparation for burial or other disposition of all human remains shall be strictly private, and no one shall be allowed in the embalming or storage room while human remains are being embalmed or pre-

pared for disposition, except the licensed funeral director and his or her duly authorized officers and/or employees, licensed embalmers and their duly registered apprentices, instructors and their students from accredited mortuary science programs approved by the bureau, and public officials in the discharge of their duties; provided, that this rule shall not apply to persons who have been authorized by the person with the right to control disposition pursuant to section 7100 of the Health and Safety Code.

(b) All human remains being transferred into or out of a funeral establishment or storage facility, except in a casket, shall be covered and kept out of the public view, to the extent reasonably possible.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7616, 7704 and 7707, Business and Professions Code.

**HISTORY:**

1. Amendment filed 2-11-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 7).
2. Editorial correction (Register 75, No. 35).
3. New subsection (b) filed 6-15-88; operative 7-15-88 (Register 88, No. 25).
4. Change without regulatory effect amending section filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).
5. Change without regulatory effect amending subsection (a) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).
6. Amendment of subsection (a) filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 1222. Embalming Fluids.**

No embalming fluids shall be used in embalming which contain heavy minerals or metallic substances which have a poisonous effect, such as arsenic, lead and mercury.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606 and 7707, Business and Professions Code.

**HISTORY**

1. New section filed 8-11-53 as an emergency; designated effective 9-9-53 (Register 53, No. 13).
2. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 7).

**§ 1223. Embalming, Preparation and Storage Rooms.**

(a) No embalming, preparation or storage room shall be located in any public storage, mini-storage, mini-warehouse, multi-unit storage complex or similar facility used by members of the general public for the storage of goods. Any existing embalming, preparation or storage room located in a prohibited facility shall be relocated and brought into full compliance with this section, within twelve (12) months of this subsection's effective date.

(b) Every licensed funeral establishment shall maintain in its embalming, preparation and/or storage room, a sufficient supply of a suitable and effective disinfectant to provide for the cleansing and disinfection of the facility and its contents.

(c) Every licensed funeral establishment and funeral director who holds unembalmed human remains for a period longer than twenty-four (24) hours shall cause the body to be refrigerated at an approved facility with sufficient capacity as defined under section 1223.1(d).

(d) All embalming, preparation or storage rooms shall contain only the equipment and supplies necessary for the preparation or care and handling of human remains for disposition or transportation.

(e) As used in this chapter, a storage room is a suitable room, other than a chapel, viewing or visitation room, office, supply room, closet or other room open to public access, which is used by a licensed funeral establishment for the storage or holding of human remains prior to effecting disposition. A storage room may be maintained in conjunction with an embalming; or preparation room.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7616, 7621, 7630, 7704 and 7707, Business and Professions Code.

**HISTORY:**

1. New section filed 2-29-56; effective thirtieth day thereafter (Register 56, No. 4).
2. Amendment filed 6-13-56; effective thirtieth day thereafter (Register 56, No. 12).
3. Amendment filed 2-11-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 7).
4. Editorial correction (Register 75, No. 35).
5. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
6. Relettering of former subsections (a)-(d) to subsections (b)-(e), new subsection (a) and change without regulatory effect of subsection (e) filed 6-15-88; operative 7-15-88 (Register 88, No. 25).
7. Amendment filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
8. Change without regulatory effect amending subsection (c) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1223.1. Shared Preparation and Storage Rooms.**

A licensed funeral establishment may share a preparation and/or a storage room with other licensed funeral establishments, upon approval by the bureau, under the following conditions:

- (a) the licensed funeral establishments are under common ownership or have a contractual agreement to share a preparation and/or storage room;
- (b) the common owners have designated one funeral establishment as the main office as defined in Section 1204(c)(2);
- (c) the remaining establishments or the establishments using the facilities of the main office are within a sixty (60) mile radius of the main office;
- (d) the licensed funeral establishment in which the common storage room is located has designated a separate labeled area within the storage room for each of the establishments using its facilities and has sufficient capacity to accommodate each licensee using the space;
- (e) An identification and labeling system shall be in place to effectively identify the human remains being prepared and/or stored in the facilities;
- (f) The facilities meet the requirements as specified in Section 7616 of the Business and Professions Code and have passed inspection by the bureau to determine its suitability for shared purposes;
- (g) A licensed funeral establishment requesting permission from the bureau to share their preparation and/or storage room, must make a request, in writing, on a form 21 F-12 (4/93) provided by the bureau. An inspection will then be scheduled and completed to ensure that the above mentioned conditions have been met before the establishment can begin sharing its facilities.

NOTE: Authority cited: Sections 7606 and 7616, Business and Professions Code. Reference: Sections 7606, 7616, 7621, 7630, 7704 and 7707, Business and Professions Code.

**HISTORY:**

- 1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
- 2. Change without regulatory effect amending first paragraph and subsections (c) and (f)-(g) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1224. Equipment Requirements. [Repealed]**

NOTE: Authority cited: Section 7606, Business and Professions Code.

**HISTORY:**

- 1. New section filed 2-29-56; effective thirtieth day thereafter (Register 56, No. 4). Refiled 6-13-56 (Register 56, No. 12).
- 2. Amendment filed 2-11-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 7).
- 3. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**Article 4. Apprentices**

- § 1225. Review of Apprentice Embalmer Registration Applications; Processing Time.
- § 1226. Record of Changes in Apprenticeship. [Repealed]
- § 1227. Leave of Absence by Apprentice. [Repealed]
- § 1228. Completion of Apprenticeship. [Repealed]
- § 1229. Embalming by an Apprentice.
- § 1230. Training Apprentices.

**§ 1225. Review of Apprentice Embalmer Registration Applications; Processing Time.**

(a) The bureau shall inform an applicant for registration as an apprentice embalmer, in writing, within seven (7) days whether the application is complete and acceptable for filing or is deficient and what specific information is required to complete the application.

(b) The bureau 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. "Completion of an application" means that a completed application form together with all required information, documentation and fees has been filed by the applicant.

(c) The minimum, median and maximum processing times for an application for registration as an apprentice embalmer from the date of acceptance and filing of the initial application until the bureau makes a final decision on the application are:

- (1) Minimum—one (1) day.
- (2) Median—ten (10) days.

**(3) Maximum—sixty (60) days.**

NOTE: Authority cited: Section 7606, Business and Professions Code; and Section 15376, Government Code. Reference: Section 7661, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. Originally published 12-5-46 (Title 16).
2. Amendment filed 11-4-47 as an emergency (Register 10, No. 2).
3. Amendment filed 12-7-65; effective thirtieth day thereafter (Register 65, No. 24).
4. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
5. Change without regulatory effect amending section and Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1226. Record of Changes in Apprenticeship. [Repealed]****HISTORY:**

1. Originally published 12-5-46 (Title 16).
2. Amendment filed 11-4-47 as an emergency (Register 10, No. 2).
3. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1227. Leave of Absence by Apprentice. [Repealed]****HISTORY:**

1. Originally published 12-5-46 (Title 16).
2. Amendment filed 11-4-47 as an emergency (Register 10, No. 2).
3. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1228. Completion of Apprenticeship. [Repealed]****HISTORY:**

1. Originally published 12-5-46 (Title 16).
2. Amendment filed 11-4-47 as an emergency (Register 10, No. 2).
3. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1229. Embalming by an Apprentice.**

(a) An apprentice shall embalm or assist in embalming at least the first twenty-five (25) of the one hundred (100) bodies required pursuant to Section 7643(d), Article 3, Chapter 12, Division 3 of the Business and Professions Code, only under the direct supervision and in the presence of his or her designated supervising embalmer.

(b) When an apprentice embalms a body out of the presence of the embalmer under whom he or she is apprenticed, the death certificate shall not be signed by such embalmer until he or she makes a personal inspection, in the presence of the apprentice, of the body as embalmed and passes thereon.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7607, 7648, 7649 and 7660, Business and Professions Code.

**HISTORY:**

1. Originally published 12-5-46 (Title 16).
2. Amendment filed 11-4-47 as an emergency (Register 10, No. 2).
3. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
4. Change without regulatory effect amending subsection (a) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1230. Training Apprentices.**

(a) A licensed funeral establishment may, upon approval by the bureau, request to be treated in aggregate for the purpose of training apprentices pursuant to the provisions of Section 7670(b) of the Business and Professions Code under the following conditions:

- (1) the licensed funeral establishments are under common ownership;
- (2) the common owners have designated one (1) funeral establishment as the main office as defined in Section 1204(c)(2), and;
- (3) the remaining establishments must be within a sixty (60) mile radius of the main office.

(b) The licensed funeral establishments requesting permission from the bureau to be treated in aggregate, shall make a request, in writing, on a form 21 A-12 (12/96) provided by the bureau. An inspection shall be scheduled and completed to ensure that the requirements of this section and section 7670 of the Business and Professions Code have been satisfied prior to approval by the bureau.

NOTE: Authority cited: Sections 7606 and 7670, Business and Professions Code. Reference: Sections 7606, 7607, 7648, 7649, 7660 and 7670, Business and Professions Code.

**HISTORY:**

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**Article 5. Embalmer's Licenses**

- § 1234. Review of Embalmer's License Application; Processing Time.
- § 1235. Examination Prior to Completion of Apprenticeship.
- § 1236. Approval of Embalming Schools. [Repealed]
- § 1237. Conduct of Examination. [Repealed]
- § 1238. Same: Applicant to Furnish Pen and Ink. [Repealed]
- § 1239. Smoking in Examination Room Prohibited. [Repealed]

**§ 1234. Review of Embalmer's License Application; Processing Time.**

(a) The bureau shall inform an applicant for licensure as an embalmer, in writing, within ten (10) days whether the application; is complete and accepted for filing or is deficient and what specific information is required to complete the application.

(b) The bureau shall make a decision within one hundred twenty (120) days after the date the application is deemed to be complete whether the applicant meets the requirements for licensure. "Completion of an application" means that a completed application form, together with all required information, documentation and fees, has been filed by the applicant. This period may be extended by that time necessary for retaking or rescheduling an application or if the applicant is delayed in completing any required term of apprenticeship or meeting any educational requirements.

(c) The minimum, median and maximum processing times for an application for licensure as an embalmer from the date of acceptance and filing of the initial application until the bureau makes a final decision on the application are:

- (1) minimum—ninety (90) days.
- (2) median—one hundred five (105) days.
- (3) maximum—one hundred twenty (120) days.

These processing times apply to those applicants who have completed the required term of apprenticeship and take and pass the first available licensing examination.

NOTE: Authority cited: Section 7606, Business and Professions Code; and Section 15376, Government Code. Reference: Section 7642, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. Amendment filed 12-7-65; effective thirtieth day thereafter (Register 65, No. 24).
2. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
3. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1235. Examination Prior to Completion of Apprenticeship.**

Applicants for an examination for embalmer's license shall be permitted to take such examination after they have completed their embalming college course, notwithstanding that they may not, at such time, have completed their embalming apprenticeship and in the event of passing such examination the embalmer's license shall be withheld until apprenticeship has been served in full and all other requirements of the law complied with.

**HISTORY:**

1. Originally published 12-5-46 (Title 16).
2. Amendment filed 11-4-47 (Register 10, No. 2).

**§ 1236. Approval of Embalming Schools. [Repealed]**

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7616, 7643 and 7646, Business and Professions Code.

**HISTORY:**

1. Amendment filed 3-1-74; effective thirtieth day thereafter (Register 74, No. 9). For prior history, see Register 56, No. 12.
2. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).



**§ 1237. Conduct of Examination. [Repealed]****HISTORY:**

1. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1238. Same: Applicant to Furnish Pen and Ink. [Repealed]****HISTORY:**

1. Amendment filed 11-14-57; effective thirtieth day thereafter (Register 57, No. 20).
2. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1239. Smoking in Examination Room Prohibited. [Repealed]****HISTORY:**

1. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**Article 5.5 Citations, Fines and Orders of Abatement**

- § 1240. Issuance of Citations; Content.
- § 1241. Assessment of Fines.
- § 1242. Order of Abatement; Extension of Time.
- § 1243. Assessment of Fine; Failure to Pay.
- § 1244. Appeal of Citation.
- § 1245. Informal Office Conference.
- § 1246. Citations; Unlicensed Activity.

**§ 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. 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, 7606 and 7740, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

**HISTORY:**

1. New article heading and section filed 11-13-92; operative 12-14-92 (Register 92, No. 46). For prior history, see Register 86, No. 27.
2. Change without regulatory effect amending subsection (a) and redesignating former subsection (d) to new subsection (c) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).
3. Amendment of subsection (a) and Note filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

**§ 1241. Assessment of Fines.**

(a) In no event shall the administrative fine be less than \$100 or exceed \$5,000 for each violation.

(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 appropriate.

NOTE: Authority cited: Sections 125.9, 7606 and 7740, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

**HISTORY:**

1. New section filed 11-13-92; operative 12-14-92 (Register 92, No. 46). For prior history, see Register 86, No. 27.
2. New subsections (a)(9)-(10), (b)(6), and (b)(17)-(18), subsection renumbering and amendment of Note filed 7-10-95, operative 8-9-95 (Register 95, No. 28).
3. New subsections (b)(3), (b)(14)-(15) and (b)(19)-(20), subsection renumbering, and repealer of subsections (c)(13)-(14) and (c)(16) and subsection renumbering filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
4. Change without regulatory effect amending subsection (d)(5) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).
5. Amendment of section heading, repealer and new subsection (a), repealer of subsections (a)(1)-(c)(17), subsection relettering, amendment of newly designated subsection (b)(7) and amendment of Note filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

**§ 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 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, 7606 and 7740, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

**HISTORY:**

1. New section filed 11-13-92; operative 12-14-92 (Register 92, No. 46). For prior history, see Register 86, No. 27.
2. Amendment of section and Note filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

**§ 1243. Assessment of Fine; Failure to Pay.**

When a citation containing an assessment of an administrative fine is not contested or if the citation and fine is contested and the licensee cited does not prevail, failure of the licensee to pay the fine within thirty (30) days of the issuance or affirmation shall constitute a violation and may result in disciplinary action being taken by the bureau. When a citation is not contested and a fine is not paid, the full amount of the fine shall be added to the fee for renewal of the license and the license shall not be renewed without payment of the renewal fee and fine.

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.

**HISTORY:**

1. New section filed 11-13-92; operative 12-14-92 (Register 92, No. 46). For prior history, see Register 86, No. 27.
2. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1244. Appeal of Citation.**

(a) Any person or entity served with a citation pursuant to this article and Section 125.9 and 125.95 of the Business and Professions Code may contest the citation by filing with the bureau, within thirty (30) days of the date of issuance of the citation, a written request for a hearing. All hearings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The cited person or entity may contest any or all of the following aspects of the citation:

- (1) The occurrence of a violation of the Funeral Directors and Embalmers Law or of a regulation adopted by the bureau.
- (2) The reasonableness of the order of abatement, if an order of abatement; is included in the citation.
- (3) The reasonableness of the period of time allowed for correction in an order of abatement, if an order of abatement is included in the citation.
- (4) The amount of the fine, if a fine is included in the citation.

(b) Failure of a cited person or entity to appear at the time and location of the requested hearing shall be deemed a withdrawal of his, her or its appeal, and the citation shall constitute a final order of the bureau and shall not be subject to appeal or review.

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.

**HISTORY:**

1. New section filed 11-13-92; operative 12-14-92 (Register 92, No. 46). For prior history, see Register 86, No. 27.

2. Change without regulatory effect amending subsections (a)-(a)(1) and (b) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

### **§ 1245. Informal Office Conference.**

(a) Without waiving his, her or its right to contest the citation pursuant to subdivision (b)(4) of Business and Professions Code Section 125.9, and Section 1244 of this code, the cited person or entity may, within ten (10) days after service of the citation, notify the bureau chief in writing of his, her or its request for an informal office conference regarding the violations charged in the citation.

(b) An informal office conference shall be held with the cited person or entity or his, her or its legal counsel or authorized representative, within thirty (30) days of receipt of the request. After conclusion of the informal office conference, the citation may be affirmed, modified or dismissed. The cited person or entity shall be notified of the actions taken, in writing, within fifteen (15) days of the conclusion of the conference, stating the reasons for the actions, the findings, and the decision. This written notification shall be served in accordance with the provisions of Section 11505(c) of the Government Code. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) The person or entity cited does not waive his, her or its right to contest the citation pursuant to subdivision (b)(4) of Business and Professions Code Section 125.9, and Section 1245 of this code, by requesting an informal office conference after which the citation is affirmed. However, if the citation is dismissed after an informal office conference, any request for a hearing on the matter shall be deemed to be withdrawn. If the citation, including any fine levied or any order of abatement issued, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for a subsequent citation, it shall be requested in accordance with subdivision (b)(4) of Business and Professions Code Section 125.9 and Section 1245 of this code.

NOTE: Authority cited: Sections 125.9, 125.95, 7602, 7606 and 7740, Business and Professions Code. Reference: Sections 125.9 and 125.95, Business and Professions Code.

#### **HISTORY:**

1. New section filed 11-13-92; operative 12-14-92 (Register 92, No. 46). For prior history, see Register 86, No. 27.
2. Change without regulatory effect amending subsections (a) and (b) and Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

### **§ 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. The citation may include a fine for such unlicensed activity which may range from one thousand one dollars (\$1,001.00) to 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 and 7606, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

#### **HISTORY:**

1. New section filed 11-13-92; operative 12-14-92 (Register 92, No. 46).
2. Change without regulatory effect amending section filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).
3. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).
4. Amendment of section and Note filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

## **Article 6. Procedure Before the Bureau**

- § 1248. Calendar of Cases. [Repealed]
- § 1249. Hearings to Be Public. [Repealed]
- § 1250. Reinstatement of Licenses. [Repealed]
- § 1251. Proof of Law Violation. [Repealed]
- § 1252. Substantial Relationship Criteria.
- § 1252.1. Criteria to Aid in Determining if Felony Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Funeral Director.
- § 1253. Rehabilitation Criteria for Denial of License.
- § 1253.5. Rehabilitation Criteria for Suspension, Revocation, or Reinstatement of License.
- § 1253.6. Disciplinary Guidelines.

**§ 1248. Calendar of Cases. [Repealed]****HISTORY:**

1. Originally published 12-5-46 (Title 16).
2. Amendment filed 11-4-47 as an emergency (Register 10, No. 2).
3. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
4. Change without regulatory effect amending article heading filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1249. Hearings to Be Public. [Repealed]****HISTORY:**

1. Repealer filed 11-14-57; effective thirtieth day thereafter (Register 57, No. 20).

**§ 1250. Reinstatement of Licenses. [Repealed]****HISTORY:**

1. Originally published 12-5-46 (Title 16).
2. Amendment filed 11-4-47 (Register 10, No. 2).
3. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1251. Proof of Law Violation. [Repealed]****HISTORY:**

1. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1252. Substantial Relationship Criteria.**

(a) This section applies to all licenses, as defined in Section 23.7 of the Business and Professions Code, that are covered by this division, including, but not limited to, licenses for funeral-related or embalming-related businesses or professions.

(b) For the purposes of denial, suspension, or revocation of a license pursuant to Section 141, 7691, or Division 1.5 (commencing with Section 475) of the Business and Professions Code, or pursuant to any section of the Cemetery and Funeral Act (Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code) that cites Division 1.5 of the Business and Professions Code as providing grounds for denial, suspension, or revocation of a license, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of the practice or profession in which the applicant seeks licensure or in which the licensee is licensed if to a substantial degree it evidences present or potential unfitness of the applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare.

(c) In making the substantial relationship determination required under subdivision (b) for a crime, the bureau shall consider the following criteria:

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of the offense; and
- (3) The nature and duties of the practice or profession in which the applicant seeks licensure or in which the licensee is licensed.

(d) For purposes of subdivision (b), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

- (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Cemetery and Funeral Act.
- (2) Conviction of any crime(s) or act(s) involving dishonesty, misrepresentation, fraud, deceit, stolen property, embezzlement, money laundering, theft, grand theft, larceny, burglary, robbery, identity theft, or obtaining money, labor, or property under false pretenses, and/or forgery or counterfeiting.
- (3) Conviction of any crime(s) or act(s) involving fiscal dishonesty, in addition to those crime(s) or act(s) listed in paragraph (2).

NOTE: Authority cited: Sections 481 and 7606, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 493, 7606 and 7691, Business and Professions Code.

**HISTORY:**

1. New section filed 3-22-73 as an emergency; effective upon filing (Register 73, No. 12).
2. Certificate of Compliance filed 5-25-73 (Register 73, No. 21).
3. Repealer and new section filed 2-11-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 7).

4. Amendment of first paragraph and Note filed 10-31-97; operative 11-30-97 (Register 97, No. 44).

5. Amendment of section and Note filed 5-10-2021; operative 5-10-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 20). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

### **§ 1252.1. Criteria to Aid in Determining if Felony Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Funeral Director.**

(a) For the purposes of Section 480(a)(1)(B)(v) of the Business and Professions Code, a financial crime that is classified as a felony, including felony conspiracy or felony attempt to commit that crime, shall be considered to be directly and adversely related to the fiduciary qualifications, functions, or duties of a funeral director if it involves an act of dishonesty, misrepresentation, deceit, fraud, or theft that causes, is intended or expected to cause, or could reasonably be expected to cause, a direct financial benefit to oneself or another or financial harm to another.

(b) For purposes of subdivision (a), financial crimes that are directly and adversely related to the fiduciary qualifications, functions, or duties of a funeral director shall include, but are not limited to, the following:

(1) Crimes under Chapter 4, 6, or 7 of Title 7 of Part 1 of the Penal Code relating to forging, stealing, mutilating, or falsifying judicial or public records or documents; falsifying evidence; bribing, influencing, intimidating, or threatening witnesses; or other offenses against public justice, if intended or expected to cause, or if the crimes could reasonably be expected to cause, a direct financial benefit to oneself or another or financial harm to another.

(2) Crimes under Chapters 9 through 10.5, inclusive, of Title 7 of Part 1 of the Penal Code relating to criminal profiteering, money laundering, fraud, or embezzlement.

(3) Crimes under Chapter 4 of Title 8 of Part 1 of the Penal Code relating to robbery.

(4) Crimes under Chapters 2 through 10, inclusive, of Title 13 of Part 1 of the Penal Code relating to burglary, burglarious or larcenous instruments or deadly weapons, forgery or counterfeiting, larceny, embezzlement, extortion, false personation or cheats, or crimes against insured property or insurers.

NOTE: Authority cited: Sections 480 and 7606, Business and Professions Code. Reference: Sections 7.5, 480, 7606, 7692, 7692.5, 7693, 7705 and 7708, Business and Professions Code.

#### **HISTORY:**

1. New section filed 5-10-2021; operative 5-10-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 20). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

### **§ 1253. Rehabilitation Criteria for Denial of License.**

(a) This section applies to all licenses, as defined in Section 23.7 of the Business and Professions Code, that are covered by this division, including, but not limited to, licenses for funeral-related or embalming-related businesses or professions.

(b) When considering the denial of an application for a license under Section 480, 7617.1, 7619, 7631, 7643(b), 7662(b), or 7708 of the Business and Professions Code on the ground that the applicant has been convicted of a crime, the bureau shall consider whether the applicant made a showing of rehabilitation, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the bureau shall consider the following criteria:

(1) The nature and gravity of the crime(s) or act(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(c) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the bureau determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (b), the denial is based on professional misconduct, or the denial is based on one or more of the grounds other than a criminal conviction that are specified in Section 7617.1, 7619, 7631, 7636(c), 7643(b), 7662(b), 7703, or 7708 of the Business and Professions Code, the bureau shall apply the following criteria in evaluating an applicant's rehabilitation:



- (1) The nature and gravity of the crime(s), professional misconduct, or act(s) under consideration as grounds for denial.
- (2) Evidence of any crime(s), professional misconduct, or act(s) committed subsequent to the crime(s), professional misconduct, or act(s) under consideration as grounds for denial.
- (3) The time that has elapsed since commission of the crime(s), professional misconduct, or act(s) referred to in paragraph (1) or (2).
- (4) Whether the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) The criteria in subdivision (b)(1) through (5), as applicable.
- (6) Evidence, if any, of rehabilitation submitted by the applicant.

NOTE: Authority cited: Sections 481, 482 and 7606, Business and Professions Code. Reference: Sections 480, 481, 482, 488, 493, 7617.1, 7619, 7631, 7636, 7643, 7662, 7703 and 7708, Business and Professions Code.

**HISTORY:**

1. New section filed 3-22-73 as an emergency; effective upon filing (Register 73, No. 12).
2. Certificate of Compliance filed 5-25-73 (Register 73, No. 21).
3. Repealer and new section filed 2-11-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 7).
4. Change without regulatory effect amending first paragraph filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).
5. Amendment of section heading, section and Note filed 5-10-2021; operative 5-10-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 20). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

**§ 1253.5. Rehabilitation Criteria for Suspension, Revocation, or Reinstatement of License.**

- (a) Application of section.

This section applies to all licenses, as defined in Section 23.7 of the Business and Professions Code, that are covered by this division, including, but not limited to, licenses for funeral-related or embalming-related businesses or professions.

- (b) Suspension or revocation of a license.

(1) When considering the suspension or revocation of a license on the ground that a licensee has been convicted of a crime, the bureau shall consider whether the licensee made a showing of rehabilitation, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the bureau shall consider the following criteria:

- (A) The nature and gravity of the crime(s) or act(s).
- (B) The length(s) of the applicable parole or probation period(s).
- (C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (D) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.
- (E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(2) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the bureau determines that the licensee did not make the showing of rehabilitation based on the criteria in paragraph (1), the suspension or revocation is based on a disciplinary action taken by another entity, as provided in Section 141 of the Business and Professions Code, for an act substantially related to the practice in which the licensee is licensed, or the suspension or revocation is based on one or more of the grounds other than a criminal conviction that are specified in Section 7636(c), 7665, 7668, 7685.6, 7692, 7692.5, 7693, 7694, 7695, 7696, 7697, 7699, 7700, 7701, 7701.5, 7702, 7703, 7704, 7705, 7706, 7707, 7711.1, 7711.2, 7711.3, or 7739, of the Business and Professions Code, the bureau shall apply the following criteria in evaluating the licensee's rehabilitation:

- (A) Nature and gravity of the crime(s) or act(s).
- (B) Total criminal record.
- (C) The time that has elapsed since commission of the crime(s) or act(s).
- (D) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.
- (E) The criteria in paragraph (1)(A) through (E), as applicable.

(F) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

(G) Evidence, if any, of rehabilitation submitted by the licensee.

(c) Petition for reinstatement.

When considering a petition for reinstatement of a license under this division, under the provisions of Section 11522 of the Government Code, the bureau shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in subdivision (b)(1) and (2), as applicable.

NOTE: Authority cited: Sections 481, 482 and 7606, Business and Professions Code. Reference: Sections 481, 482, 488, 493, 7615, 7616, 7636, 7665, 7668, 7685.6, 7686, 7690, 7691, 7692, 7692.5, 7693, 7694, 7695, 7696, 7697, 7699, 7700, 7701, 7701.5, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7711, 7711.1, 7711.2, 7711.3, 7713.4, 7735, 7736, 7737, 7738 and 7739, Business and Professions Code.

#### HISTORY:

1. New section filed 2-11-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 7).
2. Amendment of subsection (a) filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
3. Change without regulatory effect amending subsections (a) and (b) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).
4. Amendment of section heading, section and Note filed 5-10-2021; operative 5-10-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 20). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

### § 1253.6. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et. seq.), the bureau shall consider the disciplinary guidelines entitled “A Manual of Disciplinary Guidelines for Funeral Establishments, Funeral Directors, Embalmers, and Apprentice Embalmers (September 1997)” which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the bureau in its sole discretion determines that the facts of the particular case warrant such a deviation—for example, the presence of mitigating factors; the age of the case; evidentiary problems.

NOTE: Authority cited: Section 7606, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 11400.20 and 11425.50(e), Government Code.

#### HISTORY:

1. New section filed 7-20-98; operative 8-19-98 (Register 98, No. 30).
2. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

## Article 7. Miscellaneous

- § 1254. Abandonment of Applications.
- § 1255. Posting Rules.
- § 1256. Failure to Comply with Section 1255.
- § 1257. Schedule of Fees. [Repealed]
- § 1258. Notice Regarding Casket Disclaimer.
- § 1258.1. Casket Price Lists, Price Tags, Price Ranges and Display.
- § 1258.2. Rental Caskets.
- § 1258.3. Cemetery and Funeral Bureau Notification. [Repealed]
- § 1258.4. Statement of Disclosure of Preneed Agreement.
- § 1259. License Expiration and Renewal Dates.

### § 1254. Abandonment of Applications.

If an applicant for licensure as an embalmer or funeral director fails to take a required examination within one (1) year after being notified of eligibility, the application for licensure and/or examination shall be considered to have been abandoned. An application subsequent to the abandonment of a previous application shall be considered a new application and must be accompanied by the required fee.

If an applicant for licensure as an embalmer or funeral director who has taken and passed an examination after January 1, 1997, fails to apply for licensure within twelve (12) months of passing the examination, the application and examination results shall be considered to have been abandoned. An application subsequent to the abandonment of a previous application and/or examination shall be considered a new application and must be accompanied by the required fees. Apprentice Embalmers are exempt from this provision pursuant to Section 7664 of the Business and Professions Code.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7620, 7622, 7642 and 7646, Business and Professions Code.

**HISTORY:**

1. Repealer of former Section 1254, and renumbering and amendment of former Section 1245 to Section 1254 filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27). For prior history, see Register 65, No. 24. and 7740, Business and Professions Code.
2. New second paragraph filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
3. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1255. Posting Rules.**

A placard upon which section 1221 of these rules shall be printed must be fastened to the outside of all doors leading directly into the preparation, embalming, storage rooms, and refrigeration facilities in every funeral establishment.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7615, 7616, 7640, 7641, 7704 and 7707, Business and Professions Code; and Section 7100, Health and Safety Code.

**HISTORY:**

1. Amendment of section and new Note filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Amendment filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 1256. Failure to Comply with Section 1255.**

Any licensed funeral establishment or licensed funeral director failing to comply with the provisions of Section 1255 shall be subject to disciplinary action by the bureau.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7704 and 7707, Business and Professions Code.

**HISTORY:**

1. Amendment of section and new Note filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

**§ 1257. Schedule of Fees. [Repealed]**

NOTE: Authority cited: Sections 7606 and 7729, Business and Professions Code. Reference: Sections 7618, 7622.5, 7628, 7630, 7642, 7661, 7670, 7725, 7725.2, 7725.5, 7729 and 7740.5, Business and Professions Code.

**HISTORY:**

1. New section filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49). For former history, see Register 69, No. 6.
2. Repealer and new section filed 12-19-91; operative 12-19-91 (Register 92, No. 11).
3. Amendment filed 12-30-96 as an emergency; operative 1-1-97 (Register 97, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-1-97 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-30-96 order, including additional amendment of subsections (l) and (o), transmitted to OAL 4-25-97 and filed 6-5-97 (Register 97, No. 23).
5. Change without regulatory effect repealing section filed 2-2-2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

**§ 1258. Notice Regarding Casket Disclaimer.**

(a) The following statement shall be placed in uppercase 8-point boldface type or larger, at the beginning of the written statement or list which identifies a particular casket or caskets by price required by Business and Professions Code section 7685:

“THERE IS NO EVIDENCE THAT ANY CASKET REPRESENTED AS HAVING PROTECTIVE FEATURES, WHICH MAY INCLUDE A GASKET, WILL PRESERVE HUMAN REMAINS.”

(b) The written statement or list must identify all caskets having or represented as having a gasket of any kind.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Section 7606, Business and Professions Code.

**HISTORY:**

1. New section filed 2-15-80; effective thirtieth day thereafter (Register 80, No. 7).
2. Designation and amendment of subsection (a) and new subsections (b)-(c) filed 7-10-95; operative 8-9-95 (Register 95, No. 28).
3. Amendment of subsection (a) filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
4. Amendment of section heading and section filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 1258.1. Casket Price Lists, Price Tags, Price Ranges and Display.**

(a) For the purposes of Business and Professions Code section 7685 and this section, the term “provide” shall mean to give for retention to persons who inquire in person about funeral arrangements or the prices of funeral goods or services.

(b) For the purposes of Business and Professions Code sections 7685 and 7685.1(a), casket descriptions shall be sufficiently descriptive so as to provide a reasonably accurate impression of the casket including its color. The color may be expressed in either the manufacturer's color or generic color.

(c) The statement regarding the price range for all caskets offered for sale, required pursuant to Business and Professions Code section 7685, shall:

(1) Differentiate between the price range for all caskets regularly offered for sale, and the price range for all alternative containers regularly offered for sale.

(d) All caskets, representations of caskets, and alternative containers regularly offered for sale shall be either physically displayed in the funeral establishment casket selection room or displayed photographically.

(e) The provisions of Business and Professions Code section 7685.1(a) shall be applicable to caskets regularly offered for sale and displayed by catalog, by photograph and physically.

(f) For purposes of this section, a "casket" is a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic, or like material, and ornamented and lined with fabric.

(g) For the purpose of this section, an "alternative container" is an unfinished wood box or other non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed-wood, composition materials (with or without an outside covering) or like materials.

(h) For purposes of this section, "regularly offered for sale" shall not include caskets or alternative containers provided to fulfill the terms of a preneed funeral agreement, or any caskets and alternative containers offered to meet the special needs of a consumer.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7685 and 7685.1, Business and Professions Code.

#### HISTORY:

1. New section filed 7-10-95; operative 8-9-95 (Register 95, No. 28).
2. Amendment of subsection (e) filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
3. Amendment filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

### § 1258.2. Rental Caskets.

(a) If a funeral establishment offers a specially designed device used to conceal an insert containing human remains, for purposes of viewing and/or funeral or other ceremony, which gives the outward appearance of being a casket, it shall be referred to as a "rental" casket. No part of a rental casket, including its lining, shall come into contact with any human remains placed therein or placed within a rental casket insert placed therein, unless that part or lining is disposed of with the insert and human remains.

(b) A rental casket insert is an enclosure without ornamentation which has an interior lining and which is designed for the encasement of human remains for burial, cremation, or transit.

(c) A new rental casket insert shall be used for each human remains displayed in a rental casket.

(d) No rental casket shall be used or reused after it has been soiled, stained or otherwise contaminated by or from any human remains placed therein or placed within a rental casket insert placed therein.

(e) The provisions of Business and Professions Code section 7702 shall not be applicable to rental caskets, as described and defined in subsection (a) of this section.

(f) All rental caskets shall be included on the casket price list required by Business and Professions Code section 7685 and shall be displayed in the funeral establishment casket selection room or displayed photographically. When a rental casket is used, it shall appear on the contract for funeral goods or services.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606 and 7702, Business and Professions Code.

#### HISTORY:

1. New section filed 7-10-95; operative 8-9-95 (Register 95, No. 28).
2. Amendment filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

### § 1258.3. Cemetery and Funeral Bureau Notification. [Repealed]

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Section 7606, Business and Professions Code.

#### HISTORY:

1. New section filed 7-10-95; operative 8-9-95 (Register 95, No. 28).
2. Amendment of first paragraph and repealer of second paragraph filed 10-31-97; operative 11-30-97 (Register 97, No. 44).

3. Change without regulatory effect amending section heading filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

4. Repealer filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

#### **§ 1258.4. Statement of Disclosure of Preneed Agreement.**

The statement on the general price list required by Business and Professions Code section 7685(a)(2) shall be made on the first page of the list, and shall be separate and apart from any other information on the list, and shall state:

“Prior to drafting any contract for goods or services, the responsible party or the decedent’s survivor who is handling the funeral arrangements is entitled to receive a copy of any preneed agreement in the possession of the funeral establishment that has been signed and paid for, in full or in part, by or on behalf of the decedent.”

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7685 and 7745, Business and Professions Code.

#### **HISTORY:**

1. New section filed 5-13-2004; operative 6-12-2004 (Register 2004, No. 20).

2. Amendment of first paragraph filed 11-25-2015; operative 1-1-2016 (Register 2015, No. 48).

#### **§ 1259. License Expiration and Renewal Dates.**

(a) On and after January 1, 1992, all renewable licenses issued under Chapter 12 of Division 3 of the Business and Professions Code, shall expire annually on the last day of the month in which the license was originally issued, if not renewed.

(b) Any licensee who has renewed a license for the 1991 license year shall be required to renew that license for not less than seven (7) months nor more than eighteen (18) months based on its next expiration date under subsection (a). For the purpose of license renewal under this subsection, the applicable renewal fee shall be pro-rated on a monthly basis and one twelfth of the applicable fee shall be payable for each month or any portion of a month.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 152.6, 7606, 7725, 7725.2, 7725.3, 7725.4, 7725.5 and 7729, Business and Professions Code.

#### **HISTORY:**

1. New section filed 9-66-66; effective thirtieth day thereafter (Register 66, No. 31).

2. Repealer filed 2-5-69; effective thirtieth day thereafter (Register 69, No. 6).

3. New section filed 12-19-91; operative 12-19-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 11).

### **Article 8. Preneed Funds and Disclosure of Preneed Agreements**

- § 1261. Exempt Preneed Arrangements.
- § 1262. Delivery of Merchandise.
- § 1263. Investment of Funds Allowable.
- § 1264. Termination of the Trust.
- § 1265. Use of Income.
- § 1266. Use of Income upon Revocation. [Repealed]
- § 1267. Keeping of Preneed Books, Accounts, Contracts, and Records.
- § 1267.1. Funeral Establishments Intending to Cease Business Operations.
- § 1268. Commingling of Funds.
- § 1269. Reporting of Pre-Need Funeral Trust Funds.
- § 1270. Requirements of Pre-Need Fund Report to Board. [Repealed]
- § 1271. Reporting of Trustees.
- § 1272. Failure to File Required Pre-Need with Board. [Repealed]
- § 1273. Application to Licensed Funeral Directors Also Licensed As a Cemetery Authority. [Repealed]
- § 1274. Inability to Perform.
- § 1275. Requirements of Preneed Trust Agreements.
- § 1276. Pre-Need Funds Affected.
- § 1277. Definition of Preneed Arrangement.
- § 1277.5. Disclosure of Preneed Funeral Agreement.

#### **§ 1261. Exempt Preneed Arrangements.**

A pre-need arrangement, contract or plan subject to the provisions of Business and Professions Code Division 3, Chapter 12, Article 9 (the Short Act) does not include an arrangement wherein:

(a) The funeral establishment’s client directly deposits his or her own money in a bank or savings institution trust account in the name of the client as trustee for the funeral establishment, provided that, until death,



the client retains the exclusive power to hold, manage, pledge, and invest the funds in the account and may revoke the tentative trust and withdraw the funds, in whole or in part, at any time; and

(b) There is no delivery whatsoever to the funeral establishment of money to pay for the services or merchandise, until such services or merchandise have been provided.

Delivery of money to a funeral establishment within the meaning of this rule and Business and Professions Code Section 7735 includes direct or indirect delivery to the funeral establishment, or to any of the funeral establishment's agents or employees.

Note: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 7735 and 7740, Business and Professions Code.

**HISTORY:**

1. New Note filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25). For prior history, see Register 77, No. 9.
2. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
3. Change without regulatory effect amending article heading, section heading and section filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).
4. Amendment of article heading filed 5-13-2004; operative 6-12-2004 (Register 2004, No. 20).

**§ 1262. Delivery of Merchandise.**

(a) Delivery of merchandise within the meaning of Business and Professions Code Section 7741 shall mean actual personal delivery to a purchaser, trustor or beneficiary of funeral merchandise that is used or is intended to be used in connection with a preneed arrangement or any agreement collateral thereto. Any payment or payments received for funeral merchandise, where actual personal delivery of that merchandise will be delayed, shall be held in a trust as provided in Business and Professions Code, Division 3, Chapter 12, Article 9, until that merchandise is actually and personally delivered to, and is in the immediate possession of, the purchaser.

(b) Neither the delivery of a warehouse receipt, nor any other form of constructive delivery shall constitute delivery of funeral merchandise within the meaning of Section 7741.

(c) Funeral merchandise includes, but is not limited to, caskets, alternative containers, clothing, printed materials and any other merchandise usually sold by a funeral establishment for use in connection with the funeral or preparation for disposition of human remains.

NOTE: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 7606, 7735, 7740 and 7741, Business and Professions Code.

**HISTORY:**

1. Amendment and renumbering as Section 1270 and new section filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
3. New section filed 7-10-95; operative 8-9-95 (Register 95, No. 28).
4. Change without regulatory effect amending subsection (c) filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).

**§ 1263. Investment of Funds Allowable.**

(a) The trust funds shall be invested and reinvested, and kept invested in:

(1) Bonds of or securities guaranteed by the United States or an Agency thereof or this State, or of any County, City, or City and County in this State.

(2) Bonds which are legal investments for commercial banks in this State.

(3) Certificates of deposit or other interest-bearing accounts in any bank in this State insured by the Federal Deposit Insurance Corporation.

(4) Investment certificates or shares in any state or federally chartered savings institution insured by the Federal Savings and Loan Insurance Corporation.

(5) Investments of the type and in the manner as provided in Section 15001 et. seq. of the Probate Code.

(b) No loan shall be made to any licensed funeral establishment; nor to any owner, director, officer, partner or stockholder of any licensed funeral establishment; or to trustees of the trust funds; or to partners, relatives, agents, or employees of any licensed funeral establishment or of such trustees.

Note: Specific reference: Sections 7735, 7737 and 7737.5, Business and Professions Code.

**HISTORY:**

1. Renumbering from Section 1266 filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Amendment filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
3. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
4. Change without regulatory effect amending subsections (a)(4), (a)(5) and (b) filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).

**§ 1264. Termination of the Trust.**

All written requests for revocation, by the trustor, of a trust shall be honored within fifteen (15) days of receipt thereof.

NOTE: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 7735 and 7737, Business and Professions Code.

**HISTORY:**

1. Amendment and renumbering as Section 1272 and new section filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Amendment filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
3. Amendment filed 4-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1265. Use of Income.**

The annual fee for administering a trust, as provided in Business and Professions Code, Division 3, Chapter 12, Article 9, Section 7735, may be recovered by withdrawals from current trust income, but total withdrawals in any year shall not exceed four percent (4%) of the trust balance on December 31 of that year, or on the cancellation or maturity date during that year, of all payments deposited into trust, plus all prior years accumulated income. Any remaining current income shall be accumulated in trust.

NOTE: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 7735 and 7740, Business and Professions Code.

**HISTORY:**

1. Amendment and renumbering as Section 1267 and new section filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Amendment filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
3. Amendment filed 10-5-81; effective thirtieth day thereafter (Register 81, No. 41).
4. Amendment filed 1-12-90; operative 2-11-90 (Register 90, No. 3).

**§ 1266. Use of Income upon Revocation. [Repealed]****HISTORY:**

1. New section filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

**§ 1267. Keeping of Preneed Books, Accounts, Contracts, and Records.**

Each funeral establishment charged with the reporting of preneed funds hereunder shall at all times maintain or cause the trustee of the preneed trust to maintain in California and available for inspection by the bureau during reasonable working hours, complete financial records of all preneed contracts and arrangements, which records shall be established and maintained in accordance with generally accepted accounting principles. Such records shall include the following, provided, however, that records may otherwise be established and maintained in accordance with generally accepted accounting principles:

(a) An individual trustor contract, plan, or agreement.

(b) An individual trustor or beneficiary ledger account which shall set forth the amount of the contract, all payments received, all disbursements made, and all income prorated in accordance with the ratio which the trust corpus of the account bears to the entire corpus invested as set forth in Section 1265.

(c) For a licensed successor funeral establishment that has accepted the transfer of preneed contracts and arrangements from another funeral establishment pursuant to Section 7737(c)(1) of the Code, a copy of the written notice to all beneficiaries, trustors, legal representatives of the beneficiaries or trustors, and trustees ("consumers") associated with the preneed funeral agreements required by Section 7737.1(a)(4)(B) of the Code and proof the notice was provided as defined in Section 1267.1.

(d) A cash receipts journal which shall show each payment received and be totaled monthly.

(e) A cash disbursements journal which shall show each withdrawal and be totaled monthly.

(f) In the case where a checking account is used to deposit payments received or disbursements to the funeral establishment and/or the funeral director, a trustor, or an investment, it shall be designated as a trust fund account, and be reported as such. It shall be reconciled each month with the balance shown in the trust account by accounting for checks not yet presented and outstanding, bank deposits not shown on the bank statements, and other adjustments required.

(g) A general ledger which shall be posted monthly with respect to all accounts controlling the fiduciary relationship with the individual trustors. Such postings shall occur within ninety (90) days after the close of each business month.

(h) A portfolio of all investments related to the trust funds.

(i) Records for serviced accounts shall include but not be limited to:

(1) A copy of the death certificate or other satisfactory evidence of the death; copies of all documents required as specified under Sections 7685 and 7685.2 of the Business and Professions Code; a copy of the final arrangements (itemized); and a copy of the final statement to the family.

(2) All monies received from the trust; all monies received from the family; and all monies received from the Veterans Administration or Social Security or any other source to be applied to the final bill.

(3) A record showing credit for each of the above.

(j) Records for canceled accounts shall include but not be limited to:

(1) A record of all monies received, income earned, and documented expenses taken, including a revocation fee as stated in Section 7735 of the Business and Professions Code which shall include a copy of the individual trustor or beneficiary account record.

(2) A copy of the final accounting provided to the family with the cancelled check or withdrawal slip showing the amount refunded to the trustor.

(k) Records for accounts held by licensed funeral establishments that have escheated preneed accounts in accordance with the Unclaimed Property Law subject to the Code of Civil Procedure section 1518.5 (a) through (c) shall include a copy of the following documents:

(1) Proof of remittance of funds in accordance with the Unclaimed Property Law (Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the code of Civil Procedure). For this section "proof" means bank statements and if available, canceled checks.

(2) Record of the final total escheated for each account. This record shall be in the form of an individual trustor or beneficiary ledger account as specified in Section 1267(b) and must include the date of remittance.

(l) All of the foregoing records shall be retained for a period of one (1) year after the account has been canceled, serviced, or escheated and audited by the bureau and compliance with all recommendations made and audit exceptions resolved or seven (7) years from the date of service, cancellation, or escheatment, whichever comes first.

The required books and records for more than one (1) licensed funeral establishment may be centrally maintained at a single location in California with notification to the bureau or the main office as defined in Section 1204(c)(2), provided that a monthly summary of all financial transactions pertaining to each individual trust account for each licensed funeral establishment is available, at each such establishment during reasonable working hours, to the bureau or its authorized representatives; and provides further that the monthly summary contains sufficient information from which the current balance of each individual trustor's account or each individual trustor's share of any commingled trust account may be identified.

NOTE: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 7735, 7737 and 7740, Business and Professions Code.

#### HISTORY:

1. Amendment filed 7-3-80; effective thirtieth day thereafter (Register 80, No. 27). For prior history, see Register 72, No. 9; and 77, No. 25.
2. Amendment file 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
3. Amendment of first paragraph, subsections (d) and (e), and last paragraph filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
4. Change without regulatory effect amending first paragraph and subsections (f) and (j) filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).
5. Amendment of section heading and section filed 2-9-2023; operative 2-9-2023 pursuant to Government Code section 11343.4(b)(3) (Register 2023, No. 6).

### § 1267.1. Funeral Establishments Intending to Cease Business Operations.

(a) A funeral establishment intending to cease engaging in business operations and transfer its preneed funeral agreements to a licensed successor funeral establishment under Sections 7737 and 7737.1 of the Code shall do all of the following:

(1) At least 60 days prior to the cessation of operations, provide each beneficiary, trustor, or legal representative of the beneficiaries or trustors of each of the establishment's preneed agreements, and each trustee holding the preneed funeral trusts associated with each preneed funeral agreement ("consumers") a written notice that their preneed funeral agreements will be transferred to the licensed successor funeral establishment using the form 12-PASFD (New 1/23) required by subdivision (c) of Section 1274,

(2) Prior to the cessation of business operations, provide the bureau with a copy of the notice provided to consumers specified in subsection (a)(1) and a list of all preneed funeral agreements transferred to the licensed successor funeral establishment; and,

(3) Prior to the cessation of business operations, provide the licensed successor funeral establishment with a copy of the notice to consumers specified in subsection (a)(1) and proof that the notice was provided to the consumers as specified in this section.

(b) A funeral establishment intending to cease engaging in business operations without a transfer of the preneed funeral agreements to a licensed successor funeral establishment shall give written notice to each beneficiary or trustor of the preneed funeral agreements associated with the original funeral establishment, and the trustees holding the preneed funeral trusts associated with the preneed funeral agreements (“consumers”) of the cancellation of their preneed funeral agreements at least 60 days prior to the cessation of business operations using the form 12– PACE (New 1/23) in compliance with subdivision (b) of Section 1274. At least 60 days prior to the cessation of business operations, copies of the notice provided to each beneficiary, trustor, and/or trustee required by this subdivision shall also be provided to the bureau by regular mail.

(c) “Proof that the notice was provided” shall mean proof of service of any notice required by this section to consumers by mail by completion of a “written certification of service by mail” section on the form 12–PASFD (New 1/23) or form 12–PACE (New 1/23), whichever is applicable, incorporated by reference in Section 1274.

NOTE: Authority cited: Sections 7606, 7737.1 and 7740, Business and Professions Code. Reference: Sections 7737, 7737.1 and 7740, Business and Professions Code.

#### HISTORY

1. New section filed 2–9–2023; operative 2–9–2023 pursuant to Government Code section 11343.4(b)(3) (Register 2023, No. 6).

### § 1268. Commingling of Funds.

No pre—need trust funds shall be mingled or commingled with the funds of any other person, firm, or corporation; except that, for the purpose of investment pursuant to Division 3, Chapter 12, Article 9 of the Business and Professions Code and the provisions of this Article, all pre—need funeral trust funds received and held by a single trustee or a single set of trustees, may be commingled for investment purposes.

If the bureau finds that such funds have been invested in violation of this Article, it shall, by written order mailed to the person or persons in charge of such funds, require the reinvestment of such funds in conformity to this Article within ninety (90) days from the date of such order; provided, however, that such period may be extended by the bureau at its discretion.

In the enforcement of its order, the bureau is authorized to bring such action as may be necessary to enforce the provisions of law subject to its jurisdiction.

NOTE: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 7735 and 7740, Business and Professions Code.

#### HISTORY:

1. Amendment and renumbering of former Section 1265 filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
3. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

### § 1269. Reporting of Pre—Need Funeral Trust Funds.

(a) Each licensed funeral establishment and licensed funeral director who enters into any pre—need arrangements, contracts or plans described in and subject to the provisions of Article 9, Chapter 12, Division 3 of the Business and Professions Code shall file with the bureau annually on or before May 1 of each year and upon transfer of license or cessation of business, a written, verified or audited report, on form 21 P-4A (1/94) prescribed and furnished by the bureau, pertaining to funds received and held under such arrangements, contracts or plans. Firms utilizing a fiscal year accounting system may request permission, in writing to the bureau chief to file said report on a fiscal year basis and, if permission is granted, said report shall then be filed with the bureau no later than one hundred twenty (120) days from the date of the close of said fiscal year.

(b) The report required under this Article shall accompany the forms of assignment or transfer of a funeral establishment license. The report required hereunder upon cessation of business as a licensed funeral establishment shall be submitted thirty (30) days prior to such cessation of business.

(c) In cases where trust corpus is deposited in individual savings accounts, and not commingled for investment purposes, the bureau may require a verified report. Said requirement of verification shall be deemed complied with by a verification under penalty of perjury by the owner, partners, or, in the case of a corporation, by the president or vice-president and one (1) other officer thereof and, in addition thereto, all reports must contain a verification under penalty of perjury executed by at least two (2) trustees not employed by the funeral establishment and, in the case of a banking institution or trust company legally authorized to act as a trustee within the



meaning of Section 7736 of Article 9, Chapter 12, Division 3, of the Business and Professions Code, a verification under penalty of perjury on behalf of such trustee by an authorized representative of said trustee.

(d) In cases where trust funds have been commingled for purposes of investment, the bureau may require, in addition to the written report required by subsection (a) of this section, an independent audit report prepared and signed by a Certified Public Accountant or Public Accountant, currently licensed in the State of California, which certifies compliance with the provisions of Article 9, Chapter 12, Division 3 of the Business and Professions Code and the provisions of this Article.

(e) All written reports required under this section shall include, but are not limited to, a statement setting forth:

(1) Amounts collected pursuant to pre—need arrangements, contracts or plans, or any agreements collateral thereto;

(2) Amounts deposited with the trustee and held in trust;

(3) Amounts of authorized expenditures of income allocable to individual accounts, itemized as to the nature of expenditures;

(4) Amount of authorized expenditures of income paid, itemized as to the nature of expenditure; and

(5) Separately, the total amount of such trust funds invested in each of the investments authorized by law and the amount of cash on hand not invested which statement actually show the financial condition of the trust funds.

(f) Two (2) or more funeral establishments who utilize a common trust fund to hold and administer payments received under pre—need contracts may cause the trustee of that common trust fund to file one (1) combined annual report regarding all such pre—need contracts, provided each funeral establishment's information is disclosed separately.

NOTE: Authority cited: Sections 7602, 7606 and 7740, Business and Professions Code. Reference: Sections 7735, 7738, 7740 and 7740.5, Business and Professions Code.

#### **HISTORY:**

1. Amendment and renumbering of former Section 1261 filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Amendment filed 2-11-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 7).
3. Amendment filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
4. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
5. Amendment of subsections (a), (b), (c) and (f) filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
6. Change without regulatory effect amending subsections (a), (c), (d) and (f) and amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

### **§ 1270. Requirements of Pre—Need Fund Report to Board. [Repealed]**

#### **HISTORY:**

1. Amendment and renumbering from former Section 1262 filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

### **§ 1271. Reporting of Trustees.**

The reports provided for in Section 1269 of this Article shall state the name and address of each of the trustees. Any change of trustees shall be reported to the bureau within thirty (30) days after the effective date thereof and shall be accompanied by the appropriate fee.

NOTE: Specific reference: Sections 7736 and 7740.5, Business and Professions Code.

#### **HISTORY:**

1. Amendment and renumbering from former Section 1263 filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Amendment filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
3. Change without regulatory effect amending section filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

### **§ 1272. Failure to File Required Pre—Need with Board. [Repealed]**

#### **HISTORY:**

1. Renumbering from former Section 1264 filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

### **§ 1273. Application to Licensed Funeral Directors Also Licensed As a Cemetery Authority. [Repealed]**

#### **HISTORY:**

1. New section filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Repealer filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).



**§ 1274. Inability to Perform.**

(a) If, for any reason, a licensed funeral establishment or licensed funeral director is unable to perform the funeral services prior to or upon the death of the beneficiary of a preneed trust agreement, then the trustees shall pay all trust corpus and net income to the beneficiary, trustor, or the legal representative of either the beneficiary or trustor without the imposition of any revocation charge.

(b) If a funeral establishment intends to cease engaging in business operations by reason of dissolution, closure, sale, or revocation, without a transfer of preneed funeral agreements to a licensed successor funeral establishment, it shall complete bureau form 12–PACE (New 1/23), Notice of Cancellation of Preneed Funeral Contract or Agreement, which is hereby incorporated by reference and provide the completed form to each consumer as set forth in Section 1267.1(b) by regular mail to the last known address provided by the consumer to the funeral establishment.

(c) If a funeral establishment intends to cease engaging in business operations by reason of dissolution, closure, sale, or revocation, and the preneed agreements are being transferred to a licensed successor funeral establishment, it shall complete bureau form 12–PASFD (New 1/23), Notice of Transfer of Preneed Contract or Agreement to Successor Funeral Establishment, which is hereby incorporated by reference, and provide the completed form to each consumer set forth in Section 1267.1(a)(1) by regular mail to the last known address provided by the consumer to the funeral establishment.

NOTE: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 7737, 7737.1, 7737.2 and 7740, Business and Professions Code.

**HISTORY:**

1. Renumbering from Section 1267 filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Repealer and new section filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
3. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
4. Amendment filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
5. Amendment of section and NOTE filed 2–9–2023; operative 2–9–2023 pursuant to Government Code section 11343.4(b)(3) (Register 2023, No. 6).

**§ 1275. Requirements of Preneed Trust Agreements.**

A preneed trust contract within the meaning of Article 9, Chapter 12, Division 3, of the Business and Professions Code shall include but not be limited to the following information:

- (a) The name and address of the trustor.
- (b) The name and address of the beneficiary.
- (c) The names and addresses of the trustees.
- (d) The name, address, and phone number of the funeral establishment.
- (e) A sequential number which shall be continuous and in order of issue.
- (f) A copy of the completed funeral arrangements forms including, but not limited to, the following:

(1) A description of the merchandise and services selected which is sufficiently detailed to identify them; and

(2) Any disclosure of prices or itemization of services or merchandise, which is required to be provided pursuant to State or Federal law, rule, or regulation then in effect.

(g) A statement that earned annual income is being credited to the account and that administrative expenses, if charged, are paid from income only.

(h) A statement, in clear nontechnical language, that the contract is either a guaranteed preneed contract or that it is a nonguaranteed preneed contract, and, if guaranteed only in part, the services or merchandise included in the guarantee shall be specified. This statement shall be printed in bold face type and shall be located on the first page of the contract.

(1) If the contract is guaranteed, there shall be included in the contract a complete explanation of all the terms and conditions limiting the guarantee.

(2) If the contract is not guaranteed, there shall be included in the contract a complete explanation of how the trust balance will be applied to pay for services and merchandise provided at the beneficiary's death and that there may be additional payments required or a refund due.

(i) A statement that the trustees of the trust will deliver the corpus of the trust and net income to the funeral establishment filing a certified copy of the Death Certificate and evidence that said funeral establishment has furnished the merchandise and services. (Corpus of the Trust means all monies paid and all securities delivered pursuant to this prearrangement contract.)

(j) A statement that the amount of revocation fee to be charged in the event of revocation, shall in no event exceed ten percent (10%) of the paid-in corpus and is chargeable against earned income only; and a statement that no revocation fee may be charged if the funeral establishment is unable to perform substantially according to the terms of the agreement.

(k) In immediate proximity to the space reserved for the purchaser's signature, in a size equal to at least ten point (10-point) bold type, the following statement: "All funds received will be deposited with the trustees within thirty (30) days and held in a trust which is fully refundable upon fifteen (15) days' written notice except when the beneficiary is the recipient of public assistance, as provided in the Welfare and Institutions Code and this trust agreement has been designated as being irrevocable thereunder."

NOTE: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 7735, 7736, 7737, 7738, 7740 and 7740.5, Business and Professions Code.

**HISTORY:**

1. New section filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
2. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).
3. Amendment of subsections (h) and (i) filed 1-12-90; operative 2-11-90 (Register 90, No. 3).
4. Change without regulatory effect amending section heading, first paragraph, and subsections (i) and (j) filed 4-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 16).
5. Amendment of subsections (d), (f)(2) and (h) filed 2-9-2023; operative 2-9-2023 pursuant to Government Code section 11343.4(b)(3) (Register 2023, No. 6).

**§ 1276. Pre-Need Funds Affected.**

Nothing in this article shall require liquidation or transmutation of any lawful pre-need funeral trust agreement existing prior to the effective date of these regulations, but any pre-need funeral trust agreement as described in said Article 9 entered into subsequent to July 1, 1977, and all funds and the records and books of account thereof may be maintained separately and apart from the records of any trust funds received by any licensed funeral director prior to that date.

(a) Pre-need arrangements, contracts, or plans created or existing prior to July 1, 1977, shall be subject to the provisions of Section 1265, Title 16 of the California Code of Regulations, and shall operate in conformity with the provisions of Section 1265, Title 16 of the California Code of Regulations in the same manner and to the same extent as such arrangements, contracts, and plans created thereafter.

(b) No licensed funeral establishment or licensed funeral director shall service and/or purchase any contract made by any person who is not operating in conformity with the provisions of Article 9, Chapter 12, Division 3, of the California Business and Professions Code.

Note: Authority and reference cited: Sections 7606 and 7740, Business and Professions Code.

**HISTORY:**

1. New section filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
2. Amendment filed 10-5-81; effective thirtieth day thereafter (Register 81, No. 41).
3. Amendment filed 10-31-97; operative 11-30-97 (Register 97, No. 44).

**§ 1277. Definition of Preneed Arrangement.**

"Preneed arrangement," "preneed agreement" or "preneed" is written instruction regarding goods or services or both goods and services for final disposition of human remains when the goods or services are not provided until the time of death, and may be either unfunded or paid for in advance of need.

Note: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7685, 7685.6 and 7745, Business and Professions Code.

**HISTORY:**

1. New section filed 5-13-2004; operative 6-12-2004 (Register 2004, No. 20).

**§ 1277.5. Disclosure of Preneed Funeral Agreement.**

(a) The statement disclosing whether or not the funeral establishment has any preneed agreement made by or on behalf of the deceased shall be made on the "Disclosure of Preneed Funeral Agreement" form provided by the Bureau (Form 21F1 (10/03)), which is hereby incorporated by reference. The disclosure statement shall be signed and dated by the representative of the funeral establishment and by the survivor or responsible party. A copy of the completed disclosure statement shall be given to the survivor or responsible party, and the original completed disclosure statement, or copy thereof, shall be retained by the funeral establishment for not less than one (1) year after the serviced preneed account has been audited by the Bureau or seven (7) years from the date the disclosure statement was made, whichever comes first.

(b) The “survivor” is the person with the right to control disposition of the remains under Health and Safety Code Section 7100, or their designee.

(c) The “responsible party” is the person contracting for funeral goods or services or both funeral goods and services for the decedent from the funeral establishment.

(d) Pursuant to Business and Professions Code Sections 7685.6 and 7745, a copy of any signed preneed agreement made by, or on behalf of the decedent that is paid for in full or in part and is in the possession of the funeral establishment must be given to the responsible party or the decedent’s survivor who is handling the funeral arrangements prior to drafting any contract for goods or services.

Note: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7606, 7685.6 and 7745, Business and Professions Code.

#### **HISTORY:**

1. New section filed 5-13-2004; operative 6-12-2004 (Register 2004, No. 20).
2. Amendment of subsection (d) filed 2–9–2023; operative 2–9–2023 pursuant to Government Code section 11343.4(b)(3) (Register 2023, No. 6).

## **Article 9. Continuing Education Requirements [Repealed]**

#### **HISTORY:**

1. Repealer of article 9 (sections 1280-1291) filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

## **Division 23. Cemetery and Funeral Bureau**

Article 1.	General
Article 2.	Fees
Article 3.	Applications and Licenses
Article 3.5.	Endowment Care Fund Unitrust Distribution
Article 4.	Signs, Contracts, Literature, Etc.
Article 5.	Annual Reports
Article 6.	Special Care Funds
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### **Article 1. General**

§ 2300.	Location of Office.
§ 2301.	Tenses, Gender and Number.
§ 2302.	Definitions.
§ 2303.	Delegation of Certain Functions.
§ 2304.	Filing of Addresses.

#### **§ 2300. Location of Office.**

The principal office of the Bureau is located at 1625 North Market Boulevard, Suite S-208, Sacramento, California 95834.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference cited: Section 9630, Business and Professions Code.

#### **HISTORY:**

1. Amendment filed 12-15-70; effective thirtieth day thereafter (Register 70, No. 51). For prior history see Register 63, No. 3.
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment filed 6-25-80; effective thirtieth day thereafter (Register 80, No. 26).
4. Change without regulatory effect amending section filed 2-8-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 6).
5. Change without regulatory effect amending division heading and section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

#### **§ 2301. Tenses, Gender and Number.**

For the purpose of the rules and regulations contained in this chapter, the present tense includes the past and future tenses, and the future, the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, and the plural, the singular.

#### **HISTORY:**

1. Editorial correction restoring inadvertently deleted section (Register 2012, No. 19).

**§ 2302. Definitions.**

(a) For the purpose of the rules and regulations contained in this chapter, the term “bureau” means the Cemetery and Funeral Bureau; the term “Code” means Business and Professions Code; and the term “Act” means the Cemetery Act.

(b) For the purpose of cemetery section development or modification after January 1, 1990, the term “development” means the creation of new interment spaces through the construction of a mausoleum, columbarium, or an in-ground interment section (excluding private mausoleums and/or columbariums) and the term “modification” means the addition, deletion or reconfiguration of interment spaces within an existing cemetery section, mausoleum, and/or columbarium.

NOTE: Authority cited: Sections 9630 and 9631, Business and Professions Code. Reference: Section 8550(d), Health and Safety Code.

**HISTORY:**

1. New subsection (a) designator, new subsection (b) and new Note filed 11-10-98; operative 12-10-98 (Register 98, No. 46).
2. Change without regulatory effect amending subsection (a) and Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**§ 2303. Delegation of Certain Functions.**

The power and discretion conferred by law upon the bureau to receive and file accusations; issue notices of hearings, statements to respondent and statements of issue; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set calendar cases for hearing and perform other functions necessary to the businesslike dispatch of the business of the bureau in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said Code are hereby delegated to and conferred upon the bureau chief, or, in his or her absence from the office of the bureau, the acting bureau chief.

NOTE: Authority cited: Sections 9630 and 9631, Business and Professions Code; and Section 11152, Government Code. Reference: Section 9625, Business and Professions Code.

**HISTORY:**

1. Editorial correction filed 12-15-83; effective thirtieth day thereafter (Register 83, No. 51).
2. Change without regulatory effect amending section and Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**§ 2304. Filing of Addresses.**

Each person holding a certificate of authority, license, permit or any other authority to practice or engage in any activity in the State of California under any and all laws administered by the bureau shall file his proper and current mailing address with the bureau, at its office in Sacramento, and immediately notify the bureau of any and all changes of mailing address, giving both his old and his new address.

NOTE: Authority cited: Sections 136 and 9630, Business and Professions Code. Reference: Section 9630, Business and Professions Code.

**HISTORY:**

1. Change without regulatory effect amending section and adding Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**Article 2. Fees**

- § 2310. Regulatory Charge.
- § 2311. Filing Fee.
- § 2312. Cemetery Broker Original License Fee. [Repealed]
- § 2313. Cemetery Broker Re-Examination Fee. [Repealed]
- § 2314. Cemetery Broker License Renewal Fee. [Repealed]
- § 2315. Cemetery Broker Multiple Corporate Officer or Partner License Renewal Fee. [Repealed]
- § 2316. Cemetery Broker Branch Office License Fee. [Repealed]
- § 2317. Crematory Manager Examination, License, and Renewal Fee. [Repealed]
- § 2317.1. Cemetery Manager Examination, License, and Renewal Fee. [Repealed]
- § 2317.2. Report of Change of Designation and Request to Share Fee.
- § 2318. Cemetery Salesman License Fee. [Repealed]
- § 2319. Cemetery Salesman Re-Examination Fee. [Repealed]
- § 2320. Cemetery Salesperson License Renewal Fee. [Repealed]
- § 2321. Change of Name or Address Fee. [Repealed]

- § 2322. Cemetery Salesperson Transfer Fee. [Repealed]  
 § 2323. Duplicate License Fee. [Repealed]  
 § 2324. Reinstatement Fee. [Repealed]

### § 2310. Regulatory Charge.

(a) The annual regulatory charge to be paid by every cemetery authority operating a cemetery under the Act is fixed at the sum of seven hundred and fifty dollars (\$750). An additional quarterly charge of eleven dollars fifty cents (\$11.50) for each burial, entombment, or inurnment made during the preceding quarter shall be paid to the Bureau. If the cemetery authority performs a burial, entombment, or inurnment, and the cremation or hydrolysis was performed at a crematory or hydrolysis facility located on the grounds of the cemetery and under common owner-ship with the cemetery authority, the total of all additional charges shall be eight dollars and fifty cents (\$8.50).

(b) The annual regulatory charge to be paid by every licensed crematory is fixed at the sum of seven hundred and fifty dollars (\$750). An additional quarterly charge of eleven dollars and fifty cents (\$11.50) for each cremation made during the preceding quarter shall be paid to the Bureau.

(c) The annual regulatory charge to be paid by every licensed hydrolysis facility is fixed at the sum of nine hundred dollars (\$900). An additional quarterly charge of eleven dollars and fifty cents (\$11.50) for each hydrolysis made during the preceding quarter shall be paid to the bureau.

(1) Each hydrolysis facility shall submit to the bureau annual maintenance records of the hydrolysis chamber for the preceding year with the annual renewal application. The hydrolysis facility license shall not be renewed without proof of annual maintenance of the hydrolysis chamber.

(2) Each hydrolysis facility that discharges hydrolysate to a sewer collection system shall submit to the bureau the current Department of Public Health evaluation with the annual renewal application pursuant to Business and Professions Code section 7639.08(e). The hydrolysis facility license shall not be renewed without proof of the evaluation.

(d) The bureau shall not renew the license of any cemetery authority, crematory or hydrolysis facility that has failed to pay the quarterly regulatory charge prescribed under this section.

NOTE: Authority cited: Sections 7606, 7639.08 and 7712.5, Business and Professions Code. Reference: Sections 7639.06, 7639.08, 7712.9, 7730.10 and 7730.11, Business and Professions Code.

#### HISTORY:

1. Amendment filed 12-26-79 as an emergency; effective upon filing (Register 79, No. 52). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 4-25-80. For prior history, see Registers 63, No. 3; 73, No. 41; 75, No. 49; and 77, No. 47.
2. Amendment filed 6-25-80; effective thirtieth day thereafter (Register 80, No. 26).
3. Amendment of subsection (a) filed 5-29-81; effective thirtieth day thereafter (Register 81, No. 22).
4. Amendment of subsections (a) and (b) to reduce the amount of the charges filed 11-28-88; operative 12-31-88 (Register 88, No. 51).
5. Amendment of section and Note filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
6. Amendment filed 12-30-96 as an emergency; operative 1-1-97 (Register 97, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-1-97 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of subsection (b) (Register 97, No. 24).
8. Certificate of Compliance as to 12-30-96 order, including further amendments, transmitted to OAL 4-25-97 and filed 6-9-97 (Register 97, No. 24).
9. Change without regulatory effect amending section filed 12-12-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 50).
10. Amendment filed 9-8-2009; operative 10-8-2009 (Register 2009, No. 37).
11. Amendment of section and Note filed 6-17-2021; operative 6-17-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 25). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.
12. Change without regulatory effect amending subsections (a)–(c) filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

### § 2311. Filing Fee.

(a) An initial filing fee of seven hundred and fifty dollars (\$750) shall accompany an original application for a certificate of authority to operate a cemetery. In the event the expenses of the bureau's investigation, computed at the rate of (\$100) per day per person, shall exceed this amount, the applicant shall, within five (5) days after request therefore, deposit such additional sums as deemed necessary by the bureau provided that the total sum shall not exceed nine hundred dollars (\$900).

(b) An initial filing fee of seven hundred and fifty dollars (\$750) shall accompany an original application for a crematory license. In the event the expenses of the bureau's investigation, computed at the rate of one hundred dollars (\$100) per day per person, shall exceed this amount, the applicant shall, within five (5) days after request therefore, deposit such additional sums as deemed necessary by the bureau provided that the total sum shall not exceed nine hundred dollars (\$900).



(c) An initial filing fee of nine hundred dollars (\$900) shall accompany an original application for a hydrolysis facility.

NOTE: Authority cited: Sections 7606, 7653 and 7712.5, Business and Professions Code. Reference: Sections 7653, 7712.5 and 7730.11, Business and Professions Code.

**HISTORY:**

1. New section 2311 filed 1-16-56; effective thirtieth day thereafter (Register 56, No. 2).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment filed 6-25-80; effective thirtieth day thereafter (Register 80, No. 26).
4. Amendment of section and Note filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
5. Change without regulatory effect amending subsections (a) and (b) filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
6. Amendment of section and Note filed 6-17-2021; operative 6-17-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 25). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.
7. Change without regulatory effect amending subsections (a)–(b) filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

**§ 2312. Cemetery Broker Original License Fee. [Repealed]**

NOTE: Authority cited: Sections 9630 and 9751, Business and Professions Code. Reference: Section 9751, Business and Professions Code.

**HISTORY:**

1. Amendment filed 12-15-70; effective thirtieth day thereafter (Register 70, No. 51). For prior history, see Register 59, No. 7.
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment filed 5-29-81; effective thirtieth day thereafter (Register 81, No. 22).
4. Amendment filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
5. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

**§ 2313. Cemetery Broker Re-Examination Fee. [Repealed]**

NOTE: Authority cited: Sections 9630 and 9752, Business and Professions Code. Reference: Section 9752, Business and Professions Code.

**HISTORY:**

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment of section and Note filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
4. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

**§ 2314. Cemetery Broker License Renewal Fee. [Repealed]**

NOTE: Authority cited: Sections 9630 and 9753, Business and Professions Code. Reference: Section 9753, Business and Professions Code.

**HISTORY:**

1. Amendment filed 12-15-70; effective thirtieth day thereafter (Register 70, No. 51). For prior history, see Register 59, No. 7.
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment filed 5-29-81; effective thirtieth day thereafter (Register 81, No. 22).
4. Amendment filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
5. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

**§ 2315. Cemetery Broker Multiple Corporate Officer or Partner License Renewal Fee. [Repealed]**

NOTE: Authority cited: Sections 9630, 9754 and 9755, Business and Professions Code. Reference: Sections 9754 and 9755, Business and Professions Code.

**HISTORY:**

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment of section and Note filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
4. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
5. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

**§ 2316. Cemetery Broker Branch Office License Fee. [Repealed]**

NOTE: Authority cited: Sections 9630 and 9760, Business and Professions Code. Reference: Section 9760, Business and Professions Code.

**HISTORY:**

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment of section and Note filed 6-15-95; operative 7-17-95 (Register 95, No. 24).

4. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

### **§ 2317. Crematory Manager Examination, License, and Renewal Fee. [Repealed]**

Note: Authority cited: Section 9630, Business and Professions Code. Reference: Sections' 9764.1 and 9787.2, Business and Professions Code.

#### **HISTORY:**

1. New section filed 5-27-2003 as an emergency; operative 5-27-2003 (Register 2003, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-24-2003 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 91, No. 10.
2. Certificate of Compliance as to 5-27-2003 order transmitted to OAL 9-22-2003 and filed 11-3-2003 (Register 2003, No. 45).
3. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

### **§ 2317.1. Cemetery Manager Examination, License, and Renewal Fee. [Repealed]**

Note: Authority cited: Section 9630, Business and Professions Code. Reference: Sections 9723 and 9764.2, Business and Professions Code.

#### **HISTORY:**

1. New section filed 5-27-2003 as an emergency; operative 5-27-2003 (Register 2003, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-24-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-27-2003 order transmitted to OAL 9-22-2003 and filed 11-3-2003 (Register 2003, No. 45).
3. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

### **§ 2317.2. Report of Change of Designation and Request to Share Fee.**

(a) The fee for filing a report of a change of designated crematory manager, or designated cemetery manager, is fifty dollars (\$50.00).

(b) The fee for filing a request to share a designated cemetery manager is fifty dollars (\$50).

Note: Authority cited: Section 9630, Business and Professions Code. Reference: Section 9764.3, Business and Professions Code.

#### **History**

1. New section filed 5-27-2003 as an emergency; operative 5-27-2003 (Register 2003, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-24-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-27-2003 order transmitted to OAL 9-22-2003 and filed 11-3-2003 (Register 2003, No. 45).

### **§ 2318. Cemetery Salesman License Fee. [Repealed]**

NOTE: Authority cited: Sections 9630 and 9756, Business and Professions Code. Reference: Section 9756, Business and Professions Code.

#### **HISTORY**

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment filed 5-29-81; effective thirtieth day thereafter (Register 81, No. 22).
4. Amendment filed 5-22-87; operative 7-1-87 (Register 87, No. 23).
5. Amendment filed 2-5-91; operative 2-5-91 (Register 91, No. 10).
6. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

### **§ 2319. Cemetery Salesman Re–Examination Fee. [Repealed]**

NOTE: Authority cited: Sections 9630 and 9757, Business and Professions Code. Reference: Section 9757, Business and Professions Code.

#### **HISTORY:**

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment of section and Note filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
4. Change without regulatory effect repealing section filed 4-8-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 15).

### **§ 2320. Cemetery Salesperson License Renewal Fee. [Repealed]**

NOTE: Authority cited: Sections 9630 and 9759, Business and Professions Code. Reference: Section 9759, Business and Professions Code.

#### **HISTORY:**

1. New Section 2313 filed 1-16-56; effective thirtieth day thereafter (Register 56, No. 2).
2. Renumbered from 2313 and amendment filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
3. Amendment filed 2-20-63; designated effective 4-1-63 (Register 63, No. 3).
4. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
5. Amendment filed 5-29-81; effective thirtieth day thereafter (Register 81, No. 22).
6. Amendment filed 5-22-87; operative 7-1-87 (Register 87, No. 23).
7. Amendment filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
8. Change without regulatory effect amending section heading and section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

9. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

### § 2321. Change of Name or Address Fee. [Repealed]

NOTE: Authority cited: Sections 9630 and 9761, Business and Professions Code. Reference: Section 9761, Business and Professions Code.

#### HISTORY:

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 2-20-63; designated effective 4-1-63 (Register 63, No. 3). Editorial correction, Register 63, No. 16.
3. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
4. Amendment filed 5-22-87; operative 7-1-87 (Register 87, No. 23).
5. Amendment of section and Note filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
6. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
7. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

### § 2322. Cemetery Salesperson Transfer Fee. [Repealed]

NOTE: Authority cited: Sections 9630 and 9762, Business and Professions Code. Reference: Section 9762, Business and Professions Code.

#### HISTORY:

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment filed 5-22-87; operative 7-1-87 (Register 87, No. 23).
4. Amendment of section and Note filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
5. Change without regulatory effect amending section heading and section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
6. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

### § 2323. Duplicate License Fee. [Repealed]

NOTE: Authority cited: Sections 9630 and 9763, Business and Professions Code. Reference: Section 9763, Business and Professions Code.

#### HISTORY

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment filed 5-22-87; operative 7-1-87 (Register 87, No. 23).
4. Amendment of section and Note filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
5. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

### § 2324. Reinstatement Fee. [Repealed]

NOTE: Authority cited: Sections 9630 and 9764, Business and Professions Code. Reference: Section 9764, Business and Professions Code.

#### HISTORY:

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment filed 5-22-87; operative 7-1-87 (Register 87, No. 23).
4. Amendment filed 6-15-95; operative 7-17-95 (Register 95, No. 24).
5. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
6. Change without regulatory effect repealing section filed 2–2–2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

## Article 3. Applications and Licenses

- § 2326. Applications for Cemetery Certificate of Authority and Crematory License.
- § 2326.05. Application for Hydrolysis Facility License.
- § 2326.1. Managers.
- § 2326.2. Limited Liability Company Certification of Insurance Coverage or Net Worth.
- § 2326.3. Record Keeping and Reporting of Changes.
- § 2326.5. Approval to Share a Cemetery Manager.
- § 2326.6. Approval to Share a Crematory Manager.
- § 2327. Cemetery Salesperson Application.
- § 2328. Abandonment of Application for a Cemetery License.
- § 2328.1. Cemetery Manager and Crematory Manager Application Form, Abandonment, and Review Processing Time.
- § 2329. Abandonment of Application for a Certificate of Authority.
- § 2329.1. Abandonment of Application for Hydrolysis Facility License.
- § 2330. Substantial Relationship Criteria.
- § 2330.1. Criteria to Aid in Determining if Felony Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications,

- Functions, or Duties of a Cemetery Manager.
- § 2331. Rehabilitation Criteria for Denial of License.
- § 2331.1. Rehabilitation Criteria for Suspension, Revocation, or Reinstatement of License.
- § 2332. Interments in Non-Licensed Cemeteries.
- § 2333. Cemetery Maintenance Standards.

### **§ 2326. Applications for Cemetery Certificate of Authority and Crematory License.**

(a) Certificate of Authority. Applications for a certificate of authority to operate a cemetery shall be filed on bureau form 23-COA (rev. 01/23), Application for Certificate of Authority, which is hereby incorporated by reference, 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 copy of:

(A) Articles of Incorporation, if a corporation, or Articles of Organization, if a limited liability company, certified by the Secretary of State.

(B) Statement of Information for the corporation or organization filed with the Secretary of State.

(C) Permit to sell and issue securities. If not applicable, submit a statement certifying that securities will not be sold or issued.

(D) Land use or zoning permit certified by the city or county for cemetery use.

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

(F) Deed to the property certified by the county recorder, contract of purchase or any other instrument which provides the applicant with merchantable title thereto.

(G) Endowment care trust agreement executed by the board of directors or limited liability company members of the cemetery authority.

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

(A) Names and addresses of all the incorporators or organizers, directors, corporate officers or limited liability company members, 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 corporate officers or limited liability company members, directors and all sales agents and/or cemetery 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 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 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 of 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.

(b) In addition to complying with the provisions listed above (all apply, except (a)(2)(C)(1)), a limited liability company applying for a certificate of authority must also include the following:

(1) A completed bureau form 23-LE (1/16), Bureau Licensed Employee, which is hereby incorporated by reference, for each employee issued a license by the bureau.

(2) Comply with one, or a combination, of the following:

(A) Maintain a policy or policies of insurance of not less than one million dollars (\$1,000,000) for up to five licensed employees plus an additional one hundred thousand dollars (\$100,000) for each licensed employee over five, not to exceed five million dollars (\$5,000,000) accompanied by bureau form 23-INS (1/16), Certification of Insurance Coverage, which is hereby incorporated by reference.

(B) Maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security of not less than one million dollars (\$1,000,000) for up to five licensed employees plus an additional one hundred thousand dollars (\$100,000) for each licensed employee over five, not to exceed five million dollars (\$5,000,000) accompanied by bureau form 23-INS (1/16), Certification of Insurance Coverage, which is hereby incorporated by reference.

(C) Unless the limited liability company has satisfied the provisions of (b)(2)(D) of this section, each member of a limited liability company automatically guarantees payment of the difference between the maximum amount of security required for the limited liability company, up to five million dollars (\$5,000,000), and the security otherwise provided in accordance with (b)(2)(A) and (b)(2)(B) of this section provided that the aggregate amount paid by all members under these guarantees shall not exceed the difference.

(D) Confirm a net worth equal to or exceeding ten million dollars (\$10,000,000) as of the most recently completed fiscal year accompanied by bureau form 23-NW (1/16), Certification of Net Worth, which is hereby incorporated by reference.

(3) Names and addresses of all limited liability company members accompanied by bureau form 16-CA (rev. 1/21), Certification Affidavit, which is hereby incorporated by reference, for each member.

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

(c) Crematory License Application. Application for a crematory license shall be filed on the form furnished by the bureau 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, 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: Sections 135.4, 7606 and 7712.5, Business and Professions Code. Reference: Sections 135.4, 7613.4, 7613.5, 7652.8, 7652.10, 7653, 7712.2, 7712.4 and 7712.5, Business and Professions Code; and Section 8738.1, Health and Safety Code.

#### HISTORY:

1. New Sections 2315 and 2316 filed 1-16-56; effective thirtieth day thereafter (Register 56, No. 2).

2. Renumbering of Sections 2315 and 2316 to 2326 and 2327 respectively filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).

3. Amendment filed 6-25-80; effective thirtieth day thereafter (Register 80, No. 26).

4. Amendment filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).

5. Change without regulatory effect amending subsections (a), (a)(4)-(b), (b)(2), (b)(3) and (b)(4) filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

6. Amendment of section heading, section and Note filed 5-3-2016; operative 7-1-2016 (Register 2016, No. 19).



7. Change without regulatory effect amending subsection (b)(3) and amending Note filed 2-16-2021 pursuant to section 100, title 1, California Code of Regulations (Register 2021, No. 8).

8. Change without regulatory effect amending subsection (a) filed 2-2-2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

#### **§ 2326.05. Application for Hydrolysis Facility License.**

(a) An application for a hydrolysis facility license shall be filed on bureau form 23-HF (New 07/20), Application for Hydrolysis Facility License, which is hereby incorporated by reference, at the principal office of the bureau. In addition to the payment of the filing fees required by section 2311 of Title 16 of the California Code of Regulations, each application shall be accompanied by a copy of the following:

(1) Articles of Incorporation, if the applicant is a corporation, certified by the Secretary of State, or a partnership agreement, if the applicant is a partnership.

(2) Land use or zoning permit certified by the city or county for the land proposed to be used by the applicant for the hydrolysis facility.

(3) Permit to operate a hydrolysis facility issued by the local department of public health.

(4) Deed, lease or other written instrument providing the applicant with the right to possess and use the property where the business will be located.

(5) Approval of hydrolysis chamber issued by the State Department of Public Health.

(b) A signed and verified statement by the individual if the applicant is an individual, by the chief executive officer and one of the directors of the corporation if the applicant is a corporation, by both partners if the partnership has two partners, or the majority of partners, if the applicant is a partnership with two or more partners. Each statement shall set forth:

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

(2) A statement of proposed plan of operation which shall include the type of services proposed to be sold by the facility.

(3) A complete and accurate copy of the standard agreement the applicant proposes to use for funding of prearranged hydrolysis.

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

(1) Amount of storage for hydrolyzed and unhydrolyzed remains.

(2) The relative placement of structures and equipment in the hydrolysis facility.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7639, 7639.04, 7639.06 and 7639.08, Business and Professions Code.

#### **HISTORY:**

1. New section filed 6-17-2021; operative 6-17-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 25). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

#### **§ 2326.1. Managers.**

(a) Each cemetery for which a new certificate of authority is required shall be operated under the supervision of a cemetery manager qualified as such by the bureau. If the applicant for a new certificate of authority is a limited liability company, the cemetery manager shall not 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 cemetery manager. There shall be submitted with the application a written statement from the cemetery manager 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 cemetery managers who have been qualified and examined by the bureau may be designated by the applicant and can succeed the cemetery manager in the event of death, resignation, disability, voluntary surrender of license, or other inability to perform the required duties, as provided for in Business and Professions Code section 7653.6.

(b) Each crematory for which a crematory license is required shall be operated under the supervision of a crematory manager designated by the applicant and qualified as such by the bureau. Additional crematory managers who have been qualified and examined by the bureau may be designated by the applicant and can suc-

ceed the crematory manager in the event of death, resignation, disability, or other inability to perform the required duties, as provided for in Business and Professions Code section 7713.

(c) Each hydrolysis facility for which a hydrolysis facility license is required shall be operated under the supervision of a crematory manager designated by the applicant and qualified as such by the bureau. Each report of change of designation of a crematory manager submitted shall comply with section 2317.2 of Title 16 of the California Code of Regulations. Additional crematory managers who have been qualified and certified by the bureau may be designated by the applicant and can succeed the crematory manager in the event of death, resignation, disability, or other inability to perform the required duties, as provided in Business and Professions Code section 7712.11. For the purpose of certifying a crematory manager pursuant to this subdivision, the bureau shall require a written statement from the hydrolysis chamber manufacturer demonstrating that the crematory manager has received the proper training for the operation of the hydrolysis chamber and the proposed activities of the licensed hydrolysis facility.

NOTE: Authority cited: Sections 7606 and 7653, Business and Professions Code. Reference: Sections 7613.4, 7613.5, 7652.8, 7653, 7653.6, 7712.10, 7712.11 and 7713, Business and Professions Code.

**HISTORY:**

1. New section filed 3-11-77; effective thirtieth day thereafter (Register 77, No. 11).
2. Amendment filed 6-25-80; effective thirtieth day thereafter (Register 80, No. 26).
3. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section and Note filed 5-3-2016; operative 7-1-2016 (Register 2016, No. 19).
5. New subsection (c) and amendment of Note filed 6-17-2021; operative 6-17-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 25). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

**§ 2326.2. Limited Liability Company Certification of Insurance Coverage or Net Worth.**

A limited liability company licensed as a certificate of authority shall submit annually, within four months of the completion of the fiscal year, one of the following to the bureau:

- (a) Bureau form 23-INS (1/16), Certification of Insurance Coverage, which is hereby incorporated by reference, certifying the limited liability company has a policy or policies of insurance for claims against it based upon acts, errors, or omissions of its licensed employees accompanied by a certificate of insurance or proof of adequate security.
- (b) Bureau form 23-NW (1/16), Certification of Net Worth, which is hereby incorporated by reference, certifying that as of the last day of its most recently completed fiscal year, the limited liability company has a net worth equal to or exceeding ten million dollars (\$10,000,000).

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Section 7613.4, Business and Professions Code; and Section 16956, Corporations Code.

**HISTORY:**

1. New section filed 5-3-2016; operative 7-1-2016 (Register 2016, No. 19). For prior history, see Register 85, No. 26.

**§ 2326.3. Record Keeping and Reporting of Changes.**

(a) Pursuant to section 17701.13 of the Corporations Code, limited liability companies shall designate and continuously maintain in this state an office and an agent for service of process. Each limited liability company shall maintain a current list of the full name and last known business or residence address of each member.

(b) Any changes the limited liability company makes to the designated office, principal office, agent for service of process, or mailing address by filing a statement of information with the Secretary of State shall be submitted to the bureau.

(c) Change of corporate officers, limited liability company members, or trustees of the endowment care fund, including change of name and/or address of any individual previously reported to the bureau, shall be reported within thirty (30) days of the change on bureau form 23-NC (1/16), Cemetery Notification of Change, which is hereby incorporated by reference, along with a filing fee of twenty-five dollars (\$25).

(d) Addition of corporate officers, limited liability company members, or trustees of the endowment care fund shall be submitted on bureau form 23-NC (1/16), Cemetery Notification of Change, which is hereby incorporated by reference, accompanied by bureau form 16-CA (rev. 1/21), Certification Affidavit, which is hereby incorporated by reference, for each person along with a filing fee of twenty-five dollars (\$25).

(e) A limited liability company shall notify the bureau within thirty (30) days of employing a bureau licensed employee or upon the resignation or termination of a bureau licensed employee on bureau form 23-LE (1/16), Bureau Licensed Employee, which is hereby incorporated by reference.

NOTE: Authority cited: Sections 135.4 and 7606, Business and Professions Code. Reference: Sections 135.4, 136, 7613.4, 7613.5 and 7730.3, Business and Professions Code; and Section 17701.13, Corporations Code.

**HISTORY:**

1. New section filed 5-3-2016; operative 7-1-2016 (Register 2016, No. 19).
2. Change without regulatory effect amending subsection (d) and amending Note filed 2-16-2021 pursuant to section 100, title 1, California Code of Regulations (Register 2021, No. 8).

**§ 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 located within a one hour driving distance, not to exceed 60 miles, from the designated 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, the cemetery manager shall not 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.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7613.4, 7613.5, 7653.6 and 7653.8, Business and Professions Code.

**HISTORY:**

1. New section filed 5-27-2003 as an emergency; operative 5-27-2003 (Register 2003, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-24-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-27-2003 order, including amendment of subsection (d), transmitted to OAL 9-22-2003 and filed 11-3-2003 (Register 2003, No. 45).
3. Amendment of subsections (c)-(d), repealer of subsections (e)-(e)(3)(C) and amendment of Note filed 5-3-2016; operative 7-1-2016 (Register 2016, No. 19).

**§ 2326.6. Approval to Share a Crematory Manager.**

Licensed crematories that are approved by the bureau upon compliance with this section may designate a licensed crematory manager to manage, supervise, and direct the business or profession of more than one licensed crematory under the following conditions:

- (a) The licensed crematories are under common ownership. As used herein, "common owner" or "common ownership" shall mean that each of the licensed crematories are owned and operated by the same individual, partnership, or corporation;
- (b) The common owner has designated one crematory as the main office. The main office is defined as a location designated with the bureau in accordance with subdivision (d) where the individual licensed owner, partners, or corporate officers of each of the licensed crematories can be contacted;
- (c) The licensed crematories are located within 60 miles from the designated main office; and,
- (d) Each licensed crematory requesting permission from the bureau to share a designated crematory manager must submit a written, completed request on bureau form 23-SCRM (New 4/22), Request for Approval to Share Crematory Manager, which is hereby incorporated by reference. Crematories shall submit this form by email to emailcfb@dca.ca.gov or by mail to the address listed on the form.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Section 7713, Business and Professions Code.

**HISTORY:**

1. New section filed 1-3-2023; operative 4-1-2023 (Register 2023, No. 1).

**§ 2327. Cemetery Salesperson Application.**

If an applicant for a license as a cemetery salesperson changes employers after filing his or her application and before the license applied for is issued, such application shall be deemed void and the applicant must file another fee and application.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Sections 9701 and 9702.1, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
2. Change without regulatory effect amending section heading and section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**§ 2328. Abandonment of Application for a Cemetery License.**

Pursuant to Section 9702.5 of the Code, an applicant must qualify by written examination, notice of which will be forwarded to the applicant by the bureau. If the applicant fails to appear at the time and place designated by the bureau, the bureau may deem the application abandoned after the expiration of the following periods:

Cemetery broker .....	Six (6) months
Cemetery salesperson.....	Two (2) months

Provided, however, that an application shall not be deemed abandoned if an applicant has filed a written request to take a subsequent examination prior to the expiration of the appropriate time periods. In the absence of special circumstances, the applicant whose application has been deemed abandoned shall file a new application accompanied by the required fee.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Sections 9702.5 and 9715, Business and Professions Code.

**HISTORY:**

1. New Section 2317 filed 1-16-56; effective thirtieth day thereafter (Register 56, No. 2).
2. Renumbered from 2317 and amendment filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
3. Amendment filed 3-11-77; effective thirtieth day thereafter (Register 77, No. 11).
4. Amendment filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
5. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**§ 2328.1. Cemetery Manager and Crematory Manager Application Form, Abandonment, and Review Processing Time.**

(a) An applicant for examination or licensure as a cemetery manager or crematory manager shall complete an application, Form 21A3 (01/23).

(b) If an applicant for examination or licensure as a cemetery manager or crematory manager fails to take a required examination within twelve (12) months after being notified of eligibility, or fails to apply for licensure within twelve (12) months of being notified of passing the examination, the application or examination result shall be considered to have been abandoned. An application subsequent to the abandonment of a previous application or examination shall be considered a new application and must be accompanied by the required fees.

(c) The procedure for considering applications for examination and issuance of licenses under this section shall be as follows:

(1) The Bureau shall inform an applicant for examination or licensure as a cemetery manager or crematory manager, in writing, within fourteen (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 sixty (60) days after the application is deemed to be completed whether the applicant meets the requirements for licensure or examination. "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 examination or licensure as a cemetery manager or crematory 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 — seven (7) days.

(B) Median — thirty (30) days.

(C) Maximum — sixty (60) days.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Sections 142(b), 9702.5, 9723.1 and 9787.3, Business and Professions Code.



**HISTORY:**

1. New section filed 5-27-2003 as an emergency; operative 5-27-2003 (Register 2003, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-24-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-27-2003 order, including amendment of subsection (a), transmitted to OAL 9-22-2003 and filed 11-3-2003 (Register 2003, No. 45).
3. Change without regulatory effect amending subsections (b), (c)(1)-(2) and (c)(3)(A)-(C) filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Change without regulatory effect amending subsection (a) and Note filed 1-10-2012 pursuant to section 100, title 1, California Code of Regulations (Register 2012, No. 2).
5. Change without regulatory effect amending subsection (a) and NOTE filed 2-2-2023 pursuant to section 100, title 1, California Code of Regulations (Register 2023, No. 5).

**§ 2329. Abandonment of Application for a Certificate of Authority.**

An application shall be deemed abandoned and all fees previously paid shall be deemed forfeited if the applicant for a certificate of authority refuses or fails to comply with the provisions of Section 2326 within one (1) year from the date of written notification by the bureau of the documents or information required to be submitted. The applicant shall be notified in writing of such action. Any application so abandoned may not be reinstated; however, the applicant may file a new application accompanied by the required fees and documents.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Sections 9702.5, 9716, 9781 and 9782, Business and Professions Code.

**HISTORY:**

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 3-11-77; effective thirtieth day thereafter (Register 77, No. 11).
3. Amendment filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
4. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**§ 2329.1. Abandonment of Application for Hydrolysis Facility License.**

An application shall be deemed abandoned and all fees previously paid shall be deemed forfeited if the applicant for a hydrolysis facility license refuses or fails to comply with the provisions of sections 2326.05 and 2326.1(c) of Title 16, of the California Code of Regulations, within one (1) year from the date of written notification by the Bureau of the documents or information required to be submitted. The applicant shall be notified in writing of such action. Any application so abandoned may not be reinstated. However, the applicant may file a new application accompanied by the required fees and documents.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7639.04, 7639.06 and 7652.10, Business and Professions Code.

**HISTORY:**

1. New section filed 6-17-2021; operative 6-17-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 25). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

**§ 2330. Substantial Relationship Criteria.**

(a) This section applies to all licenses, as defined in Section 23.7 of the Business and Professions Code, that are covered by this division, including, but not limited to, licenses for cemetery-related businesses or professions, cremation-or hydrolysis-related businesses or professions, or remains disposal.

(b) For the purposes of denial, suspension, or revocation of a license pursuant to Section 141, 7691, 7711.3, or Division 1.5 (commencing with Section 475) of the Business and Professions Code, or pursuant to any section of the Cemetery and Funeral Act (Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code) that cites Division 1.5 of the Business and Professions Code as providing grounds for denial, suspension, or revocation of a license, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of the practice or profession in which the applicant seeks licensure or in which the licensee is licensed if to a substantial degree it evidences present or potential unfitness of the applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare.

(c) In making the substantial relationship determination required under subdivision (b) for a crime, the bureau shall consider the following criteria:

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of the offense; and



(3) The nature and duties of the practice or profession in which the applicant seeks licensure or in which the licensee is licensed.

(d) For purposes of subdivision (b), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Cemetery and Funeral Act.

(2) Conviction of any crime(s) or act(s) involving dishonesty, misrepresentation, fraud, deceit, stolen property, embezzlement, money laundering, theft, grand theft, larceny, burglary, robbery, identity theft, or obtaining money, labor, or property under false pretenses, and/or forgery or counterfeiting.

(3) Conviction of any crime(s) or act(s) involving fiscal dishonesty, in addition to those crime(s) or act(s) listed in paragraph (2).

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 141, 475, 480, 481, 488, 490, 492, 493, 7606, 7639.08, 7653, 7691, 7711.3, 7711.5 and 7712.5, Business and Professions Code.

#### HISTORY:

1. Repealer and new section filed 3-11-77; effective thirtieth day thereafter (Register 77, No. 11). For prior history, see Register 73, No. 20.
2. Amendment filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
3. Change without regulatory effect amending first paragraph filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section and Note filed 6-1-2021; operative 6-1-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 23). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

### **§ 2330.1. Criteria to Aid in Determining if Felony Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Cemetery Manager.**

(a) For the purposes of Section 480(a)(1)(B)(v) of the Business and Professions Code, a financial crime that is classified as a felony, including felony conspiracy or felony attempt to commit that crime, shall be considered to be directly and adversely related to the fiduciary qualifications, functions, or duties of a cemetery manager if it involves an act of dishonesty, misrepresentation, deceit, fraud, or theft that causes, is intended or expected to cause, or could reasonably be expected to cause, a direct financial benefit to oneself or another or financial harm to another.

(b) For purposes of subdivision (a), financial crimes that are directly and adversely related to the fiduciary qualifications, functions, or duties of a cemetery manager shall include, but are not limited to, the following:

(1) Crimes under Chapter 4, 6, or 7 of Title 7 of Part 1 of the Penal Code relating to forging, stealing, mutilating, or falsifying judicial or public records or documents; falsifying evidence; bribing, influencing, intimidating, or threatening witnesses; or other offenses against public justice, if intended or expected to cause, or if the crimes could reasonably be expected to cause, a direct financial benefit to oneself or another or financial harm to another.

(2) Crimes under Chapters 9 through 10.5, inclusive, of Title 7 of Part 1 of the Penal Code relating to criminal profiteering, money laundering, fraud, or embezzlement.

(3) Crimes under Chapter 4 of Title 8 of Part 1 of the Penal Code relating to robbery.

(4) Crimes under Chapters 2 through 10, inclusive, of Title 13 of Part 1 of the Penal Code relating to burglary, burglarious or larcenous instruments or deadly weapons, forgery or counterfeiting, larceny, embezzlement, extortion, false personation or cheats, or crimes against insured property or insurers.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7.5, 480, 7606, 7705 and 7711.3, Business and Professions Code.

#### HISTORY:

1. New section filed 6-1-2021; operative 6-1-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 23). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

### **§ 2331. Rehabilitation Criteria for Denial of License.**

(a) This section applies to all licenses, as defined in Section 23.7 of the Business and Professions Code, that are covered by this division, including, but not limited to, licenses for cemetery-related businesses or professions, cremation-or hydrolysis-related businesses or professions, or remains disposal.

(b) When considering the denial of an application for a license under Sections 480 and 7712.4 of the Business and Professions Code on the ground that the applicant has been convicted of a crime, the bureau shall

consider whether the applicant made a showing of rehabilitation, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the bureau shall consider the following criteria:

- (1) The nature and gravity of the crime(s) or act(s).
- (2) The length(s) of the applicable parole or probation period(s).
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.
- (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(c) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the bureau determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (b), the denial is based on professional misconduct, or the denial is based on one or more of the grounds other than a criminal conviction that are specified in Section 7612.5(c), 7639.08(a), 7651.5(g), 7653(a), 7653.7(b), or 7712.5(a) of the Business and Professions Code, the bureau shall apply the following criteria in evaluating an applicant's rehabilitation. The bureau shall find that the applicant made a showing of rehabilitation if, after considering the following criteria, the bureau finds that the applicant is rehabilitated:

- (1) The nature and gravity of the crime(s), professional misconduct, or act(s) under consideration as grounds for denial.
- (2) Evidence of any crime(s), professional misconduct, or act(s) committed subsequent to the crime(s), professional misconduct, or act(s) under consideration as grounds for denial.
- (3) The time that has elapsed since commission of the crime(s), professional misconduct, or act(s) referred to in paragraph (1) or (2).
- (4) Whether the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) The criteria in subdivision (b)(1) through (5), as applicable.
- (6) Evidence, if any, of rehabilitation submitted by the applicant.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 480, 481, 482, 488, 490, 493, 7612.5, 7712.4, 7686, 7690, 7691, 7711.1, 7711.5, 7712.5 and 7713.1, Business and Professions Code.

#### HISTORY:

1. Repealer and new section filed 3-11-77; effective thirtieth day thereafter (Register 77, No. 11). For prior history, see Register 73, No. 20.
2. Amendment filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
3. Change without regulatory effect amending subsections (a), (b) and (c) filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section heading, section and Note filed 6-1-2021; operative 6-1-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 23). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

### § 2331.1. Rehabilitation Criteria for Suspension, Revocation, or Reinstatement of License.

#### (a) Application of section.

This section applies to all licenses, as defined in Section 23.7 of the Business and Professions Code, that are covered by this division, including, but not limited to, licenses for cemetery-related businesses or professions, cremation-or hydrolysis-related businesses or professions, or remains disposal.

#### (b) Suspension or revocation of a license.

(1) When considering the suspension or revocation of a license on the ground that a licensee has been convicted of a crime, the bureau shall consider whether the licensee made a showing of rehabilitation, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the bureau shall consider the following criteria:

- (A) The nature and gravity of the crime(s) or act(s).
- (B) The length(s) of the applicable parole or probation period(s).
- (C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (D) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(2) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the bureau determines that the licensee did not make the showing of rehabilitation based on the criteria in paragraph (1), the suspension or revocation is based on a disciplinary action taken by another entity, as provided in Section 141 of the Business and Professions Code, for an act substantially related to the practice in which the licensee is licensed, or the suspension or revocation is based on one or more of the grounds other than a criminal conviction that are specified in Section 7612.5(c), 7637.4(c), 7637.5(b), 7637.7(b), 7637.8, 7637.10, 7652.7, 7653.2, 7653.35(a), 7653.4, 7653.6(b), 7672.4(a), 7672.6(b), 7672.7(b), or 7713(b) of the Business and Professions Code, Article 6 (commencing with Section 7686) of the Business and Professions Code, or Section 8113.6, 8574, 8778.5(c), or 8785 of the Health and Safety Code, the bureau shall apply the following criteria in evaluating the licensee's rehabilitation. The bureau shall find that the licensee made a showing of rehabilitation if, after considering the following criteria, the bureau finds that the licensee is rehabilitated:

- (A) Nature and gravity of the crime(s) or act(s).
  - (B) Total criminal record.
  - (C) The time that has elapsed since commission of the crime(s) or act(s).
  - (D) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
  - (E) The criteria in paragraph (1)(A) through (E), as applicable.
  - (F) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.
  - (G) Evidence, if any, of rehabilitation submitted by the licensee.
- (c) Petition for reinstatement.

When considering a petition for reinstatement of a license under this division, under the provisions of Section 11522 of the Government Code, the bureau shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in subdivision (b)(1) and (2), as applicable.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 141, 481, 482, 488, 490, 493, 7612.5, 7637.4, 7637.5, 7637.7, 7637.8, 7637.10, 7652.7, 7653.2, 7653.35, 7653.4, 7653.6, 7672.4, 7672.6, 7672.7, 7686, 7690, 7691, 7711.1, 7711.2 and 7713, Business and Professions Code; and Sections 8113.6, 8574, 8778.5 and 8785, Health and Safety Code.

#### HISTORY:

1. New section filed 6-1-2021; operative 6-1-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 23). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

### § 2332. Interments in Non-Licensed Cemeteries.

Upon the request of a holder of a right of interment in a cemetery, the certificate of authority of which has lapsed or has been revoked, (hereinafter referred to as "the nonoperating cemetery"), or on its own initiative, the bureau may arrange through another cemetery or through such person or firm, or corporation, as it deems advisable, to make interments in the nonoperating cemetery. No such interments shall be authorized by the bureau or made unless there has been paid in full to the bureau sufficient funds to reimburse the actual direct cost of interment. The power and discretion conferred by law upon the bureau to authorize such interments are hereby delegated to and conferred upon the chief of the bureau, or, in his or her absence from the office of the bureau, the acting bureau chief.

Notwithstanding the rules and regulations of the nonoperating cemetery relative to outside burial containers, the bureau may authorize the use of such containers as it deems appropriate.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Section 9718, Business and Professions Code.

#### HISTORY:

- 1. New section filed 3-11-77; effective thirtieth day thereafter (Register 77, No. 11).
- 2. Amendment of NOTE filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
- 3. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**§ 2333. Cemetery Maintenance Standards.**

(a) Every endowment care cemetery shall have cemetery maintenance standards to ensure the property is kept in a condition so as to prevent the cemetery's offensive deterioration. The cemetery maintenance standards shall be in accordance with either subdivision (b) or subdivision (c) of this Section.

(b) Each endowment care cemetery shall perform, at a minimum, the following maintenance on its cemetery property:

- (1) Trim or mow grass and prune shrubs and trees in and around the cemetery. Grass shall be trimmed or mowed to a level where flat markers of individual graves can be seen.
- (2) Suppress or remove weeds on the developed cemetery property.
- (3) Provide a sufficient supply of water to keep cemetery grass and plants as green as seasonally possible in accordance with natural terrain, availability of water, and local or county ordinances regarding water use.
- (4) Repair or restore improvements, structures and fences on the property which are owned by the cemetery.
- (5) Keep cemetery roads seasonally accessible and repair surfacing which presents a hazard.
- (6) Keep all occupied crypts and niches properly sealed or closed.
- (7) Refill or reset settled graves and markers annually, or within 120 days of the cemetery office becoming aware of the issue.
- (8) Repair any grave marker, monument, or burial vault that is damaged by the negligence of the cemetery or its employees or contractors.
- (9) Supply and empty trash receptacles when filled, and keep public areas of the cemetery grounds and water features clear of trash and debris.
- (10) Provide clear delineation of undeveloped cemetery property with the use of signage.
- (11) Control vermin and insect problems.

(c) An endowment care cemetery may establish written rules and regulations in accordance with Health and Safety Code Section 8300. At a minimum, the rules and regulations addressing maintenance of the cemetery's property shall include its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums, columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments.

(d) Notwithstanding subdivision (b), the care and maintenance of each cemetery may vary depending upon the cemetery size, location, topography and type of interments.

(e) Nothing contained in subdivision (b) shall be construed to require specific topography, structures or other cemetery-related items on the property. Cemeteries, including sections within a cemetery, that are specifically established and intended to be maintained in a natural condition are not subject to the requirements of subdivision (b), with the exception of (4), (5) and (9). Non-endowment care sections of a cemetery are exempt from the requirements of this Section.

(f) The cemetery contract shall include a statement notifying consumers that maintenance standards are available for inspection at the cemetery office. Upon the consumer(s)' request, the cemetery shall provide, for the consumer(s)' retention, a written copy of their maintenance standards.

(g) The amount collected by the cemetery in endowment care fees under Health and Safety Code Section 8738 shall be reconsidered annually by the cemetery based upon current and projected maintenance expenditures, and adjusted as necessary to ensure that sufficient funds are available to perform the maintenance required by their rules and regulations as described in subdivision (a) or subdivision (b) of this Section if subdivision (a) is not applicable.

NOTE: Authority cited: Sections 9612 and 9630, Business and Professions Code. Reference: Section 9612, Business and Professions Code; Sections 8115, 8300, 8728 and 8738, Health and Safety Code.

**HISTORY:**

1. New section filed 11-13-2012; operative 12-13-2012 (Register 2012, No. 46).

**Article 3.5. Endowment Care Fund Unitrust Distribution**

- § 2334. Unitrust Conversion Application.
- § 2334.1. Approval of Endowment Care Fund Conversion.
- § 2334.2. Denial of Unitrust Conversion Application.
- § 2334.3. Abandonment of Unitrust Application.
- § 2334.4. Reversion to Net Income Distribution Method.



**§ 2334. Unitrust Conversion Application.**

(a) A cemetery authority, its board of trustees, or its corporate trustee seeking to convert the cemetery authority's endowment care fund from a net income distribution method to a unitrust distribution method shall submit to the bureau a completed form 23-UCA (rev. 1/22), Unitrust Conversion Application, which is hereby incorporated by reference. Each application shall be accompanied by:

- (1) The proposed endowment care fund trust instrument executed by the board of directors or limited liability company members of the cemetery authority;
- (2) The trustee compensation schedule as referenced in Section 8726.2(b)(7)(B) of the Health and Safety Code;
- (3) Written investment objectives that promote the mutual goals set forth in Section 8726.2(b)(1) of the Health and Safety Code;
- (4) Evidence of how the cemetery authority, its board of trustees, or its corporate trustee will invest and manage the trust under the prudent investor rule as set forth in the Uniform Prudent Investor Act. Evidence shall be in the form of an analysis and shall include:

A. Current investment asset class allocation ranges, with explanations of the role(s) each class of investment plays in the overall portfolio strategy, and how the asset allocation will assist the trustee in managing the fund according to the prudent investor rule.

B. A five (5) year projection for the fund, by year, of anticipated income, expense, and valuation calculations adjusted for inflation and changes in asset values that identify and consider the following:

- i. The projected value of the endowment care fund necessary to maintain the cemetery when it no longer has any interment space left to sell, if that condition is expected to occur before the end of the five (5) year projection.
- ii. The reasonable administrative expenses attributable to generating income to the endowment care fund. "Reasonable administrative expenses" are the expenses identified in Section 8733 of the Health and Safety Code.
- iii. The portion of expenses attributable to care, maintenance and embellishment of the cemetery expected to be paid by the endowment care fund.
- iv. The projected contributions to the corpus from: (1) sales of developed property categorized by quantity and type of interment space, including current deposit rates and any anticipated modification of the deposit rates; and (2) sales of undeveloped property, if known and applicable.
- v. The projected growth of the fund, with consideration of tax obligations.
- vi. The projected annual unitrust amount.

(5) Policies or written procedures that identify any internal controls and reporting systems used by the trustee to manage the fund under the prudent investor rule.

(6) Written financial records showing a separately identifiable reserve account has been created for future maintenance, repair, restoration of property, or embellishments in the cemetery pursuant to Section 8726.2(b)(5) of the Health and Safety Code. The beginning balance of this reserve may include the prior year's ending balance of the Reserve for Future Maintenance under the net income distribution method.

**(b) Provision of Relevant Trust Documents**

(1) If all relevant trust documents including a proposed trust instrument are not available at the time of application, then the applicant shall include with the application an explanation for why the document(s) are not available and, if applicable, the date the document(s) are expected to become available. Any approval of the application without the relevant trust document(s) may be conditioned upon the applicant's provision of the relevant document(s) within thirty (30) days of the date when the applicant indicates the documents will become available. For the purposes of this section, "relevant trust documents" means all items listed in this section.

(2) If any relevant trust document(s) identified by the bureau in the notice of conditional approval is not provided within thirty (30) days of the date of when the documents become available, then the conditional approval shall be revoked and the application denied. The bureau shall send a notice of revocation of conditional approval and denial of the application to the applicant as set forth in Section 2334.2.

(c) A completed application pursuant to this section shall be submitted at least ninety (90) days prior to the beginning of the cemetery authority's reporting year for which the conversion is requested.

NOTE: Authority cited: Section 7606, Business and Professions Code; and Section 8726.2, Health and Safety Code. Reference: Section 7653.6, Business and Professions Code; and Sections 8726, 8726.2, 8731, 8733.5, 8736, 8738, 8740, 8751 and 8751.1, Health and Safety Code.



**HISTORY:**

1. New article 3.5 (sections 2334-2334.4) and section filed 1-5-2022; operative 1-5-2022 pursuant to Government Code section 11343.4(b)(3) (Register 2022, No. 1).
2. Change without regulatory effect amending Unitrust Conversion Application form number 23-UCA (incorporated by reference) and amending subsection (a) filed 3-17-2022 pursuant to section 100, title 1, California Code of Regulations (Register 2022, No. 11).

**§ 2334.1. Approval of Endowment Care Fund Conversion.**

Pursuant to Section 8726.2 of the Health and Safety Code, a cemetery authority shall not convert its endowment care fund to a unitrust distribution method without first complying with Section 2334 and receiving the bureau's written approval. If the bureau approves a cemetery authority's application to convert its endowment care fund to a unitrust distribution method, the conversion to the unitrust distribution method shall become effective on the first day of the cemetery authority's reporting year following the date of approval from the bureau.

NOTE: Authority cited: Section 7606, Business and Professions Code; and Section 8726.2, Health and Safety Code. Reference: Sections 8726.1, 8726.2, 8738 and 8738.1, Health and Safety Code.

**HISTORY:**

1. New section filed 1-5-2022; operative 1-5-2022 pursuant to Government Code section 11343.4(b)(3) (Register 2022, No. 1).

**§ 2334.2. Denial of Unitrust Conversion Application.**

(a) Grounds for denial. The bureau shall deny an application to convert a cemetery authority's endowment care fund from a net income distribution method to a unitrust distribution method if any of the following conditions exist:

- (1) The cemetery authority does not meet the conditions of approval described in Section 8726.2(b) of the Health and Safety Code, as applicable.
- (2) The bureau finds any of the conditions described in subdivisions (a)-(f) of Section 7613.9 of the Code.
- (3) The applicant has not provided all relevant documents to the bureau pursuant to Section 2334.

(b) Written Notice of Denial. The bureau shall provide the cemetery authority with a written notice of the denial of the application to convert to the unitrust distribution method, including the basis for the denial and the process and procedure for appealing the denial according to this section, which will be mailed to the cemetery authority licensee's address of record.

(c) Appeal of Denial. An applicant may file a written appeal of the bureau's decision denying its application to convert to the unitrust distribution method within thirty (30) days after the date of the notice of the bureau's denial. The appeal shall include any documentation the applicant wishes to present to the bureau. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act (commencing with Section 11445.10 of the Government Code).

(d) Informal Office Conference Option. In addition to requesting a hearing, the applicant may request in writing an informal office conference with the bureau regarding the reasons for the denial within ten (10) days from the date of receipt of the denial notice. The bureau shall, within thirty (30) days from the date of receipt of the request, hold an informal office conference with the applicant. At the conclusion of the informal office conference, the bureau may affirm or dismiss the denial. The bureau shall state in writing the reasons for their action and mail a copy of their findings and decision to the applicant within fifteen (15) days from the date of the informal office conference. The applicant does not waive its request for an informal hearing as provided by this section by requesting an informal office conference. If the denial is dismissed after the informal office conference, the application shall be deemed approved and the request for an informal hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Section 7606, Business and Professions Code; and Section 11445.20, Government Code. Reference: Section 7613.9, Business and Professions Code; Section 8726.2, Health and Safety Code; and Sections 11445.10 and 11445.20, Government Code.

**HISTORY:**

1. New section filed 1-5-2022; operative 1-5-2022 pursuant to Government Code section 11343.4(b)(3) (Register 2022, No. 1).

**§ 2334.3. Abandonment of Unitrust Application.**

(a) The abandonment date for an application that has been returned to the applicant as incomplete shall be 12 months from the date of returning the application.

(b) An applicant who abandons an application must submit a new application to obtain the bureau's approval to convert its endowment care fund to the unitrust distribution method.

NOTE: Authority cited: Sections 142 and 7606, Business and Professions Code. Reference: Section 142, Business and Professions Code; and Section 8726.2, Health and Safety Code.

**HISTORY:**

1. New section filed 1-5-2022; operative 1-5-2022 pursuant to Government Code section 11343.4(b)(3) (Register 2022, No. 1).

**§ 2334.4. Reversion to Net Income Distribution Method.**

(a) The bureau shall require, after sixty (60) days' notice, that a cemetery authority that has converted its endowment care fund from a net income distribution method to a unitrust distribution method to revert to the net income distribution method for any of the reasons set forth in Section 8726.2(e)(3) of the Health and Safety Code.

(b) Written notice of the bureau's requirement that the cemetery authority revert to the net income distribution method will be mailed to the cemetery authority licensee's address of record and will include the reasons for the requirement to revert to the net income distribution method and the effective date of the reversion. The effective date of reversion may be in the current or the subsequent calendar year or a fiscal year that has been approved by the bureau as set forth in Section 7612.7 of the Code.

(c) After the 60-day time period set forth in subsection (a) has passed, the bureau may require a cemetery authority to show satisfactory proof of reversion. Proof of reversion must be provided within fourteen (14) days of the date of the bureau's written request for such proof. For the purposes of this section, "satisfactory proof" means the documents or other written information, including a new proposed trust instrument, or amendment(s) thereto, showing the cemetery authority's endowment care fund reversion to the net income distribution method.

(d) It shall constitute unprofessional conduct under Section 7711.1 of the Code for a cemetery authority to fail to comply with the bureau's notice requiring the cemetery authority to revert to the use of the net income distribution method or to refuse to provide the satisfactory proof of reversion required by this section.

(e) A cemetery authority that reverts to the net income distribution method and seeks to reconvert its endowment care fund to the unitrust distribution method shall submit a new application pursuant to Section 2334 and receive approval from the bureau as provided in Section 2334.1 prior to conversion.

NOTE: Authority cited: Section 7606, Business and Professions Code. Reference: Sections 7612.6, 7613.9 and 7711.1, Business and Professions Code; and Sections 8726.2 and 8736, Health and Safety Code.

**HISTORY:**

1. New section filed 1-5-2022; operative 1-5-2022 pursuant to Government Code section 11343.4(b)(3) (Register 2022, No. 1).

**Article 4. Signs, Contracts, Literature, Etc.**

- § 2336. Nonendowment Care Interment Property in an Endowment Care Cemetery.
- § 2337. Nonendowment Care Cemeteries.
- § 2338. Cemetery Broker.
- § 2339. Form and Content of Crematory and Hydrolysis Contracts.
- § 2339.1. Cemetery Contracts; Price Disclosure.
- § 2340. Maintenance of Records.

**§ 2336. Nonendowment Care Interment Property in an Endowment Care Cemetery.**

(a) Signs. Each nonendowment care section of an endowment care property, containing property available for sale, shall be separately set off by signs prominently placed designating same as a nonendowment care section. These signs shall be at least sixteen inches (16') high and twenty-four inches (24') wide and shall be mounted upright thus being perpendicular to level ground. Each sign shall contain the following:

(1) A heading containing the words "NONENDOWMENT CARE SECTION" in black lettering at least four inches (4') high.

(2) The phrase "This section is nonendowment care interment property" in black lettering at least one and one-quarter inches (1 1/4') high.

(b) Contracts, Literature, Etc. There shall be printed at the head of all contracts, literature, etc., pertaining to nonendowment care property, the following phrase:

"The property described herein is NONENDOWMENT CARE Interment Property."

The lettering shall appear in a minimum of 10-point type and the words "NONENDOWMENT CARE" shall be in capital letters.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Sections 8740, 8743 and 8744, Health and Safety Code.

**HISTORY:**

1. New section 2320 filed 1-16-56; effective thirtieth day thereafter (Register 56, No. 2).
2. Renumbered from 2320 and amendment filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
3. Amendment filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).

4. Change without regulatory effect amending subsections (a)-(a)(2) filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

### § 2337. Nonendowment Care Cemeteries.

#### (a) Signs.

(1) Entrance Signs. Each nonendowment care cemetery shall post a sign at each entrance. These signs shall be at least sixteen inches (16') high and twenty-four inches (24') wide and shall be prominently mounted upright thus being perpendicular to level ground. Each sign shall contain the following:

(A) A heading containing the words "NONENDOWMENT CARE" in black lettering at least four inches high.

(B) The phrase "This is a nonendowment care interment property" in black lettering at least one and one-quarter inches (1 1/4') high.

(2) Office Signs. Each nonendowment care cemetery shall post a sign in the office or offices where sales are conducted. These signs shall be at least eight inches (8') high and twelve inches (12') wide and shall contain the following:

(A) A heading containing the words "NONENDOWMENT CARE" in black lettering at least two inches (2') high.

(B) The phrase "This is a nonendowment care interment property" in black lettering at least three-fourths inch (3/4') high.

(b) Contracts, Literature, Etc. There shall be printed at the head of all contracts, literature, publications, etc., of nonendowment care cemeteries the following phrase:

"This institution is operated as a 'NONENDOWMENT CARE' Interment Property."

The lettering shall appear in a minimum of 10-point type and the words "NONENDOWMENT CARE" shall be in capital letters.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Sections 8743 and 8744, Health and Safety Code.

#### HISTORY:

1. New Section 2321 filed 1-16-56; effective thirtieth day thereafter (Register 56, No. 2).
2. Renumbering from 2321 to 2337 filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
3. Amendment of NOTE filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
4. Change without regulatory effect amending subsections (a)(1) and (a)(1)(B)-(a)(2)(A) filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

### § 2338. Cemetery Broker.

Each cemetery broker shall post in a conspicuous place in the office or offices where sales are conducted a legible sign which shall indicate that he or she is a licensed cemetery broker and his or her name shall be clearly indicated thereon. This sign shall be at least five and one-half inches (5 1/2') high and eight and one-half inches (8 1/2') wide.

NOTE: Authority cited: Sections 9630 and 9713, Business and Professions Code. Reference: Section 9713, Business and Professions Code.

#### HISTORY:

1. New Section 2322 filed 1-16-56; effective thirtieth day thereafter (Register 56, No. 2).
2. Renumbering from 2322 filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
3. Amendment of NOTE filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
4. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

### § 2339. Form and Content of Crematory and Hydrolysis Contracts.

(a) Pursuant to Sections 7639.10 and 7712.6 of the Code, every contract shall be in writing and shall contain all of the agreements of the parties. Such a contract shall clearly state the following:

(1) The total contract price.

(2) Terms of payment.

(3) An itemized statement of charges including, as applicable, the following:

(A) Charges for preparation of the body.

(B) Charges for storage.

(C) Charges for permits.

(D) Charges for cremation or hydrolysis and disposition.

(E) Charges for transportation.

(F) Any other charges, which shall be particularized.

(b) Any contract, arrangement or plan for the prearrangement of cremation or cremation services or hydrolysis or hydrolysis services shall provide in sufficient detail the manner in which funds paid on account of such arrangements are to be handled including, but not limited to, the following:

(1) The name or names of the persons, firm or entity with custodial responsibility for such funds.

(2) The manner in which such funds and earnings thereon are held.

(3) A provision that any such prearrangement is wholly revocable at any time and that the person establishing such arrangement may recover funds and earnings thereon. Such funds, less an amount not to exceed ten (10) percent of the earned income as a revocation fee, shall be furnished to the person establishing such arrangement within fifteen (15) days of receipt of a notice of revocation as provided in the prearrangement contract.

NOTE: Authority cited: Sections 7606 and 7639.08, Business and Professions Code. Reference: Sections 7639.10 and 7712.6, Business and Professions Code.

#### HISTORY:

1. New section filed 6-25-80; effective thirtieth day thereafter (Register 80, No. 26).
2. Amendment of NOTE filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
3. Change without regulatory effect amending subsections (a) and (b)(3) filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section heading and subsections (a), (a)(3)(D) and (b) and amendment of Note filed 6-17-2021; operative 6-17-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 25). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

### § 2339.1. Cemetery Contracts; Price Disclosure.

A contract for the sale of prearranged cemetery services or commodities, the price of which may be modified at the time of delivery of those services or commodities, shall contain the following disclosure statement on the face of the contract in 10-point bold type:

“YOU, THE PURCHASER, WILL HAVE TO PAY, AT THE TIME OF NEED, ANY ADDITIONAL CHARGES RESULTING FROM PRICE INCREASES FOR THE FOLLOWING PREARRANGED SERVICES AND COMMODITIES:....”

Until January 1, 1984, a licensee may comply with this section by obtaining the purchaser's signature on an addendum which contains the disclosure statement. The licensee shall give the purchaser a copy of the signed addendum together with a copy of the contract of sale, and shall retain the original signed addendum and attach it to the contract of sale.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Section 8277, Health and Safety Code.

#### HISTORY

1. New section filed 12-27-82; effective thirtieth day thereafter (Register 83, No. 1).

### § 2340. Maintenance of Records.

(a) Each crematory licensee and each holder of a certificate of authority who operates a crematory shall keep a record of all remains cremated and such record shall contain the following:

(1) Name and address, if known, of the deceased.

(2) Date burial permit was issued.

(3) County issuing burial permit.

(4) Name, address, and relationship of person or persons authorizing cremation and disposition.

(5) Date of the contract for cremation.

(6) Date, time, and place remains were picked up or received by the licensee.

(7) Date and time of cremation.

(8) Date, time, place, and type of disposition of the cremated remains or name of person or entity to whom the cremated remains were released.

(b) Upon abandonment of the license or termination of licensure, records required by this section shall be turned over to a cemetery approved by the bureau or to the bureau.

(c) This section shall not be interpreted to require the holder of a certificate of authority to maintain a separate set of records pertaining to cremations.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Sections 9719 and 9785, Business and Professions Code.

**HISTORY:**

1. New section filed 6-25-80; effective thirtieth day thereafter (Register 80, No. 26).
2. Amendment of Note filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
3. Amendment of subsection (a), and new subsection (c) filed 3-30-90; operative 4-29-90 (Register 90, No. 16).
4. Editorial correction restoring History 1 and 2 (Register 94, No. 29).
5. Change without regulatory effect amending subsection (b) filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**Article 5. Annual Reports**

§ 2350. Endowment Care Fund Reports.

§ 2351. Crematory Report.

**§ 2350. Endowment Care Fund Reports.**

(a) The annual audit report required pursuant to Section 7612.6(b) of the Code shall be prepared and signed by a licensed independent certified public accountant or public accountant, and shall fully and accurately disclose the financial position of the endowment care fund. The annual audit report shall not contain disclaimers or qualifications such as to preclude the rendering of an unmodified opinion.

(b) As part of its annual report, a cemetery authority approved for conversion of its endowment care fund to the unitrust distribution method shall provide a copy of all documents that were created, updated, or changed since its approval by the bureau including all relevant trust documents and information provided to the bureau in Section 2334.

NOTE: Authority cited: Section 7606, Business and Professions Code; and Section 8726.2, Health and Safety Code. Reference: Section 7612.6, Business and Professions Code; and Section 8726.2, Health and Safety Code.

**HISTORY:**

1. New section filed 9-30-57; effective thirtieth day thereafter (Register 57, No. 17).
2. Amendment filed 6-25-80; effective thirtieth day thereafter (Register 80, No. 26).
3. Amendment filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
4. Amendment of section and Note filed 1-5-2022; operative 1-5-2022 pursuant to Government Code section 11343.4(b)(3) (Register 2022, No. 1).

**§ 2351. Crematory Report.**

Each crematory licensee shall file annually with the bureau a written report on the form prescribed by the bureau setting forth:

(a) Total number of cremations made.

(b) Disposition of cremations indicating the number which were:

(1) Burials at sea.

(2) Released to a cemetery authority.

(3) Released to the person or persons who authorized cremation.

(4) Other dispositions (describe).

(c) The amount collected and funded for prearranged cremations.

(d) The amount of funds invested in each of the investments authorized by Section 8778 of the Health and Safety Code.

(e) Each annual report by a crematory licensee accepting funds for prearranged cremations shall be accompanied by a financial statement prepared by an independent licensed certified public accountant or public accountant.

NOTE: Authority cited: Sections 9630 and 9783, Business and Professions Code. Reference cited: Section 9785, Business and Professions Code.

**HISTORY:**

1. New section filed 6-25-80; effective thirtieth day thereafter (Register 80, No. 26).
2. Change without regulatory effect amending first paragraph filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**Article 6. Special Care Funds**

§ 2370. Special Trusts.



**§ 2370. Special Trusts.**

Trusts established for burial purposes pursuant to Section 8775 of the Health and Safety Code including cremation, hydrolysis, or other commodities or services furnished at the time of and in connection with such cremation, hydrolysis, or interment are under the supervision of the bureau and must comply with the following requirements:

- (a) All moneys paid directly or indirectly and all securities delivered under the trust agreement or any agreement collateral thereto shall constitute the “trust corpus.”
- (b) None of the trust corpus shall be used for payment of commission or other expenses of trust administration.
- (c) The trust agreement shall specifically set forth any expenses to be charged to the trustor out of income to the trust or any portion of the trust corpus to be retained by the trustees or cemetery authority upon revocation and a copy thereof shall be delivered to the trustor; provided, however, such revocation fee to be retained by the trustee or cemetery authority shall not exceed ten (10) percent of the trust corpus.
- (d) Other than as provided in Subsection (c) hereof, the trust income shall be used solely for the purposes authorized by Section 8775 of the Health and Safety Code.
- (e) Unless specific property or securities are placed in trust by the trustor, investments of these funds shall be in investments authorized by law—for example, as authorized by Health and Safety Code Sections 8751 and 8751.1 as well as Civil Code Sections 2228 through 2239 and 2261.

NOTE: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Section 8775, Health and Safety Code.

**HISTORY:**

- 1. New Article 6 filed 11-16-60; effective thirtieth day thereafter (Register 60, No. 23).
- 2. Amendment filed 9-2-69; effective thirtieth day thereafter (Register 69, No. 36).
- 3. Amendment filed 12-15-70; effective thirtieth day thereafter (Register 70, No. 51).
- 4. Amendment filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
- 5. Change without regulatory effect amending first paragraph filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
- 6. Amendment of first paragraph and Note filed 6-17-2021; operative 6-17-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 25). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

**Article 7. Disciplinary Proceedings**

- § 2380. Disciplinary Guidelines.
- § 2381. False or Misleading Representations.

**§ 2380. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et. seq.), the bureau shall consider the disciplinary guidelines entitled “A Manual of Disciplinary Guidelines for Cemeteries, Crematories, Cremated Remains Disposers, Managers, Brokers, and Salespeople (September 1997)” which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the bureau in its sole discretion determines that the facts of the particular case warrant such a deviation—for example, the presence of mitigating factors; the age of the case; evidentiary problems.

NOTE: Authority cited: Section 9630, Business and Professions Code; and Sections 11400.20 and 11400.21, Government Code. Reference: Sections 11400.20, 11400.21 and 11425.50(e), Government Code.

**HISTORY:**

- 1. New section filed 7-20-98; operative 8-19-98 (Register 98, No. 30). For prior history, see Register 82, No. 35.
- 2. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**§ 2381. False or Misleading Representations.**

Pursuant to Section 9726 of the Code, the bureau may suspend or revoke the license of any cemetery licensee or the certificate of authority of any cemetery corporation which engages in misrepresentation, dishonest dealings or fraudulent conduct in connection with a trust or other agreement authorized by Health and Safety Code Section 8775, including but not limited to misrepresentations concerning the revocability of such instrument or the amount of commission or trust expenses to be paid or deducted thereunder.

NOTE: Authority cited: Section 9630, Business and Professions Code. Reference: Sections 9726, 11200 and 11500, Business and Professions Code.

**HISTORY:**

1. Repealer and new section filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
2. Change without regulatory effect amending section filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).

**Article 7.5. Citation and Fines**

- § 2382. Issuance of Citations and Fines.
- § 2383. Assessment of Fines.
- § 2384. Citation Factors.
- § 2385. Citation; Extension of Time and Failure to Comply or Pay.
- § 2386. Appeal of Citations.
- § 2386.5. Informal Office Conference.
- § 2387. Citations; Unlicensed Activity.
- § 2388. Failure to File Annual Report.

**§ 2382. Issuance of Citations and Fines.**

(a) The bureau chief, or his or her designee, is authorized to issue citations containing orders of abatement and assessing administrative fines to a licensee or registrant for any violation of the statutes and regulations enforced by the Cemetery and Funeral Bureau including Part 1 (commencing with section 8100), Part 3 (commencing with section 8250), and Part 5 (commencing with section 9501) of Division 8 of the Health and Safety Code.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts 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 the 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 2386 of this article. 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) The amount of any fine to be levied by the bureau chief, or his or her designee, shall take into consideration the factors listed in section 2384 of this article. In no case shall the total exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation.

(d) If a hearing is not requested pursuant to subdivision (b)(4) of Business and Professions Code section 125.9, and section 2386 of this article, payment of any fine shall not constitute an admission of the violation charged.

NOTE: Authority cited: Sections 125.9, 9630, 9631 and 9658, Business and Professions Code. Reference: Sections 125.9 and 9658, Business and Professions Code.

**HISTORY:**

1. New article 7.5 and section filed 5-25-93; operative 6-24-93 (Register 93, No. 22).
2. Amendment of section and Note filed 10-2-96; operative 11-1-96 (Register 96, No. 40).
3. Change without regulatory effect amending section and Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section and Note filed 11-24-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 2383. Assessment of Fines.**

In no event shall the administrative fine be less than one hundred dollars (\$100) or exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation.

NOTE: Authority cited: Sections 125.9, 9630, 9631 and 9658, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

**HISTORY:**

1. New section filed 5-25-93; operative 6-24-93 (Register 93, No. 22).
2. Amendment of subsection (d) and Note filed 10-2-96; operative 11-1-96 (Register 96, No. 40).
3. Change without regulatory effect amending section and Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section heading and repealer and new section filed 11-24-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 2384. Citation Factors.**

In assessing an administrative fine, or issuing an order of abatement, the following factors shall be given due consideration:

- (a) The nature and severity of the violation.

- (b) The good or bad faith of the cited person or entity.
- (c) History of violations of the same or similar nature.
- (d) Evidence that the violation was willful.
- (e) The extent to which the cited person or entity has cooperated with the bureau's investigation.
- (f) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.
- (g) Such other matters as justice may require.

NOTE: Authority cited: Sections 125.9, 148, 9630 and 9631, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

**HISTORY:**

1. New section filed 5-25-93; operative 6-24-93 (Register 93, No. 22).
2. Amendment of first paragraph, subsection (e) and Note filed 10-2-96; operative 11-1-96 (Register 96, No. 40).
3. Change without regulatory effect amending first paragraph and Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of first paragraph and subsection (e) filed 11-24-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 2385. Citation; Extension of Time and Failure to Comply or Pay.**

(a) If a cited person or entity who has been issued an order of abatement is unable to complete the correction within the time specified in the citation because of conditions beyond his, her or its control after the 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 chief in writing and shall be made within the time set forth for abatement. Any order granting a request for an extension shall be in writing and shall specify the new date for compliance.

(b) When a citation containing an assessment of an administrative fine, an order of abatement, or both an administrative fine and an order of abatement is not contested or if the citation is appealed and the person or entity cited does not prevail, failure to pay the fine or abate the violation charged within thirty (30) days of the issuance or affirmation shall constitute a violation and may result in disciplinary action being taken by the bureau chief, or his or her designee. When a citation is not contested and a fine is not paid, the full amount of the fine shall be added to the fee for renewal of the license and the license shall not be renewed without payment of the renewal fee and fine.

NOTE: Authority cited: Sections 125.9, 148, 9630 and 9631, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

**HISTORY:**

1. New section filed 5-25-93; operative 6-24-93 (Register 93, No. 22).
2. Amendment adding subsection (a) designator, amendment of newly designated subsection (a), and amendment of Note filed 10-2-96; operative 11-1-96 (Register 96, No. 40).
3. Change without regulatory effect amending subsection (a) and Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section heading and section filed 11-24-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 2386. Appeal of Citations.**

(a) Any person or entity served with a citation pursuant to this article and section 125.9 of the Business and Professions Code may contest the citation by filing with the bureau chief, within thirty (30) days of the date of issuance of the citation, a written request for a hearing. All hearings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The cited person or entity may contest any or all of the following aspects of the citation:

- (1) The occurrence of a violation of the Cemetery Act or of a regulation adopted by the bureau.
- (2) The reasonableness of the order of abatement, if an order of abatement is included in the citation.
- (3) The reasonableness of the period of time allowed for correction in an order of abatement, if an order of abatement is included in the citation.
- (4) The amount of the fine, if a fine is included in the citation.

(b) Failure of a cited person or entity to appear at the time and location of the requested hearing shall be deemed a withdrawal of his, her or its appeal, and the citation shall constitute a final order of the bureau chief, or his or her designee, and shall not be subject to administrative appeal or review.

NOTE: Authority cited: Sections 125.9, 148, 9630 and 9631, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

**HISTORY:**

1. New section filed 5-25-93; operative 6-24-93 (Register 93, No. 22).
2. Amendment of section and Note filed 10-2-96; operative 11-1-96 (Register 96, No. 40).
3. Change without regulatory effect amending section and Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section heading and repealer and new section filed 11-24-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 2386.5. Informal Office Conference.**

(a) Without waiving the right to contest the citation pursuant to subdivision (b)(4) of Business and Professions Code section 125.9, the cited person or entity may, within ten (10) days after service of the citation, notify the bureau chief in writing of the request for an informal office conference regarding the violations charged in the citation.

(b) An informal office conference shall be held with the cited person or entity or his, her or its legal counsel or authorized representative, within thirty (30) days of receipt of the request. After the conclusion of the informal office conference, the citation may be affirmed, modified or dismissed. The cited person or entity shall be notified of the actions taken, in writing, within fifteen (15) days of the conclusion of the conference, stating the reasons for the actions, the findings, and the decision. This written notification shall be served in accordance with the provisions of section 11505(c) of the Government Code. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) The decision following an informal office conference shall affect the cited person or entity's right to a hearing to contest the citation as follows:

(1) If a citation is dismissed after an informal office conference, any request for a hearing to contest the matter shall be deemed to be withdrawn.

(2) If the citation is affirmed after an informal office conference, the cited person or entity has a right to a hearing to contest the affirmed citation pursuant to subdivision (b)(4) of Business and Professions Code section 125.9.

(3) If the citation, including any fine levied or any order of abatement issued, is modified after an informal office conference, the citation originally issued shall be considered withdrawn and a new citation issued, and the cited person or entity has a right to a hearing to contest the newly modified citation in accordance with subdivision (b)(4) of Business and Professions Code section 125.9.

(4) No new informal office conference will be granted for an affirmed or newly modified citation, issued after an informal office conference.

NOTE: Authority cited: Sections 125.9, 148, 9630 and 9631, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

**HISTORY:**

1. New section filed 11-24-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 2387. Citations; Unlicensed Activity.**

The bureau chief, or his or her designee, is authorized to issue citations containing orders of abatement and assessing administrative fines against any unlicensed person or entity who engages in any activity for which licensure by the bureau is required. The citation may include a fine for such unlicensed activity which may range from one thousand one dollars (\$1,001) to five thousand dollars (\$5,000). The provisions of section 125.9 of the Business and Professions Code shall apply to the issuance of citations for unlicensed activity under this section. Any sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Sections 125.9, 148, 9630 and 9631, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

**HISTORY:**

1. New section filed 5-25-93; operative 6-24-93 (Register 93, No. 22).
2. Amendment of section and Note filed 10-2-96; operative 11-1-96 (Register 96, No. 40).
3. Change without regulatory effect amending section and Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section heading and section filed 11-24-2015; operative 1-1-2016 (Register 2015, No. 48).

**§ 2388. Failure to File Annual Report.**

(a) Any cemetery authority that does not file the annual report required by section 9650 of the Business and Professions Code within the time prescribed by said Code shall be assessed a fine by the bureau chief, or his or



her designee, in the amount of four hundred dollars (\$400) per month for a maximum of five (5) months. Failure to pay the fine within fifteen (15) days after receipt of written notification of the assessment or, where a timely request for waiver or reduction of the fine has been filed with the bureau chief, within fifteen (15) days after receipt of written notification of the bureau chief's decision in the matter, shall be cause for disciplinary action.

(b) A cemetery authority may request waiver or reduction of a fine by making a written request to the bureau chief therefore. The request shall be postmarked within the time specified above for payment of the fine and shall be accompanied by a statement showing good cause for the request.

(c) The bureau chief, or his or her designee, may waive or reduce the fine where a timely request is made and where he or she determines, in his or her discretion, that the cemetery authority has made a sufficient showing of good cause for the waiver or reduction.

(d) In addition to requesting a hearing to be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the person or entity cited may, within ten (10) days after service of the citation, notify the bureau chief in writing of the request for an informal office conference regarding the violations charged in the citation. The time allowed for the request shall begin the first day after the citation has been served. An informal office conference shall be in accordance with the procedures delineated in section 2386.5 of this article.

NOTE: Authority cited: Sections 125.9, 9630, 9631 and 9650.4, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

#### HISTORY:

1. New section filed 10-2-96; operative 11-1-96 (Register 96, No. 40).
2. Amendment of subsection (a) filed 6-17-97; operative 7-17-97 (Register 97, No. 25).
3. Change without regulatory effect amending section and Note filed 10-17-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 42).
4. Amendment of section and Note filed 11-24-2015; operative 1-1-2016 (Register 2015, No. 48).

## Article 9. Private Mausoleums and Columbariums

§ 2390. Construction.

### § 2390. Construction.

(a) Private mausoleums and columbariums shall be constructed as allowed in Section 9600.6 of the Health and Safety Code.

(b) Solid type construction of private mausoleums and columbariums shall also comply with the methods and standards set forth in Part 5 of the Mausoleum and Columbarium Law, (commencing with Section 9501 of the Health and Safety Code), with the exception of Sections 9627, 9632, and 9646, and with the addition of the following construction methods:

Solid type construction is construction in which all bearing walls, beams, columns, floor slabs, and roof consists of marble or granite blocks, in solid form, pinned with non-corrosive structural metal pins as hereinafter described. The foundations and footings shall be of poured-in-place reinforced concrete designed and constructed in conformity with the Uniform Building Code. All bearing walls, beams, columns, floor slabs, and roof shall be constructed in conformity with the requirements set forth in the Uniform Building Code, except as otherwise provided in this section. Structural members shall be not less than six inches (6'') thick, if of granite construction, and eight inches (8'') thick, if of marble construction. Each structural part shall be properly pinned and anchored to each other structural part. All vertical joints shall be pinned a maximum of thirty-six inches (36'') on centers, with pins a maximum of eighteen inches (18'') from a horizontal joint, or pinned with one pin per joint section, whichever spacing is smaller. All horizontal points shall be pinned a maximum of twenty-four inches (24'') on centers, or in the case of wall slabs of width greater than twenty-four inches (24''), each slab shall be pinned to roof and floor with at least two pins. No pins shall be closer than four inches (4'') to the corner of a stone. Pins shall be bronze, stainless steel or other non-corrosive structural metal, at least three-fourths inch (3/4'') in diameter and six inches (6'') long. Pins shall be properly grouted in one (1'') holes drilled to a minimum depth of three inches (3''), except the foundations, where they shall be set in place when the concrete is poured. Each course shall be properly grouted solid. All joints services shall be properly roughened to give the binding surfaces a roughness necessary for proper binding. At all vertical join

ts there shall be proper cramps at each joint line of a similar non-corrosive variety. No course shall be less than eighteen inches (18'') in height, and thirty-six (36'') in length. The roof stone shall be pinned to the side walls. All joints shall be large enough to allow for expansion and contraction, and shall be raked at least one-half inch (1/2'') deep, unless constructed of single slabs. Where granite or marble roof is constructed of more than



one piece, and pitch is three inches (3'') per twelve inches (12'') or less, up-slope pieces must overlap down-slope pieces by a minimum of eight inches (8''). For pitches more than three inches (3'') to six inches (6'') per twelve inches (12''), this minimum overlap shall be four inches (4''). For a slope steeper than six inches (6''), this minimum overlap shall be one and one inches (1 1/2''). Where granite or marble roof stone is level or nearly level, and terminated in a vertical joint on one or more sides, this vertical joint shall be protected by a superimposed cap, along whose edge a drainage trough shall be cut in the roof stone of such size and slope as to prevent moisture from entering the bed joint between roof stone and cap. All interior and exterior fastenings for hangers, clips, doors, and other objects shall be of copper base alloy, aluminum, copper, or stainless steel of adequate gauges. All exterior metals used for doors, window frames, skylights, gutters, downspout, flashing, or in embellishment shall be of copper, copper-based alloy, aluminum, or stainless steel of gauges structurally determined.

NOTE: Authority cited: Sections 102.1 and 9630, Business and Professions Code. Reference: Section 9600.5, Health and Safety Code.

**HISTORY**

1. New article 9 (section 2390) and section filed 12-6-96; operative 1-5-97 (Register 96, No. 49).



# HEALTH AND SAFETY CODE

## Division

- 7. Dead Bodies.
- 8. Cemeteries.
- 102. Vital Records and Health Statistics.

## DIVISION 7 DEAD BODIES

### Part

- 1. General Provisions
- 2. Disinterment and Removal

**HISTORY:** Enacted Stats 1939 ch 60.

## PART 1 GENERAL PROVISIONS

### Chapter

- 1. Definitions
- 2. General Provisions
- 3. Custody, and Duty of Interment
- 3.5. Uniform Anatomical Gift Act
- 3.7. Death
- 4. Disposal of Unclaimed Dead
- 5. Embalming and Transportation

**HISTORY:** Enacted Stats 1939 ch 60.

## CHAPTER 1 DEFINITIONS

### Section

- 7000. Application of definitions
- 7001. "Human remains" or "remains"
- 7002. "Cremated remains"
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- 7010. "Cremation"
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- 7015. "Crypt"; "Vault"
- 7016. "Niche"
- 7017. "Hydrolysate"
- 7018. "Cemetery authority"
- 7019. "Cemetery corporation," "cemetery association," and "cemetery corporation or association"
- 7020. "Cemetery business," "cemetery businesses," and "cemetery purposes"
- 7021. "Directors" or "governing body"
- 7022. "Lot," "plot," and "interment plot"
- 7023. "Plot owner," "owner," or "lot proprietor"
- 7024. "Permit for Disposition of Human Remains"
- 7025. "Disposition"

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7000. Application of definitions

The definitions in this chapter apply to this division, Division 8 (commencing with Section 8100) and Divi-

sion 102 (commencing with Section 102100) of this code and Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 1 (SB 542); Stats 2018 ch 92 § 136 (SB 1289), effective January 1, 2019; Stats 2018 ch 571 § 31 (SB 1480), effective January 1, 2019 (ch 571 prevails).

#### **§ 7001. “Human remains” or “remains”**

“Human remains” or “remains” means the body of a deceased person, regardless of its stage of decomposition, and includes cremated, reduced, or hydrolyzed human remains.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 2 (SB 542); Stats 2022 ch 399 § 28 (AB 351), effective January 1, 2023.

#### **§ 7002. “Cremated remains”**

“Cremated remains” means the ashes and bone fragments of a human body that are left after cremation in a crematory, and includes ashes from the cremation container. “Cremation remains” does not include foreign materials, pacemakers, or prostheses.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1972 ch 541 § 1; Stats 1993 ch 1232 § 5 (AB 598); Stats 2001 ch 436 § 3 (SB 542).

#### **§ 7002.5. “Hydrolyzed human remains”**

(a) “Hydrolyzed human remains” means bone fragments of a human body that are left after hydrolysis in a hydrolysis facility. “Hydrolyzed human remains” does not include foreign materials, pacemakers, or prostheses.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 27 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7002.7. Definitions**

(a) “Reduction facility” means a structure, room, or other space in a building or real property where natural, organic reduction of a human body occurs.

(b) “Reduced human remains” means the remains of a human body that have been reduced to soil through a process of reduction. “Reduced human remains” does not include foreign materials, pacemakers, or prostheses.

(c) “Reduction” means the process of transforming a human body into soil using the natural decomposition process, accelerated with the addition of organic materials through the following steps:

(1) The body of a deceased person is mixed together with natural materials and air and is periodically turned, eventually resulting in the body’s reduction to a soil material.

(2) Large tanks, containers, or similar vessels hold human remains together with straw, wood chips, or other natural materials until the process is complete.

(3) The processing of the remains after removal from the reduction chamber pursuant to Section 7010.3.

(d) “Reduction chamber” means the enclosed space within which individual human remains are reduced and any other attached, nonenclosed, mechanical components that are necessary for the safe and proper functioning of the equipment. A reduction chamber shall meet or exceed the requirements set by the State Department of Public Health and the federal Centers for Disease Control and Prevention for destruction of human pathogens, including complying with Section 7714.3.

(e) “Reduced human remains container” means a receptacle into which human remains are placed after reduction.

**HISTORY:** Added Stats 2022 ch 399 § 29 (AB 351), effective January 1, 2023.

#### **§ 7003. “Cemetery”**

(a) “Cemetery” means either of the following:

(1) Any of the following that is used or intended to be used and dedicated for cemetery purposes:

(A) A burial park, for earth interments.

(B) A mausoleum, for crypt or vault interments.

(C) A crematory and columbarium, for interment of cremated remains or hydrolyzed human remains.

(2) A place where six or more human bodies are buried.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 29 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7004. “Burial park”**

“Burial park” means a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7005. “Mausoleum”**

Except in Part 5 (commencing with Section 9501) of Division 8, “mausoleum” means a structure or building for the entombment of human remains in crypts or vaults in a place used, or intended to be used, and dedicated, for cemetery purposes.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 5 (SB 542).

**§ 7006. “Crematory”**

“Crematory” means a building or structure containing one or more furnaces for the reduction of bodies of deceased persons to cremated remains.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7006.1. “Hydrolysis facility”**

(a) “Hydrolysis facility” means a building or structure containing one or more chambers for the reduction of bodies of deceased persons by alkaline hydrolysis.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 30 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7006.3. “Cremation chamber”**

“Cremation chamber” means the enclosed space within which the cremation of human remains is performed.

**HISTORY:** Added Stats 1993 ch 1232 § 6 (AB 598).

**§ 7006.4. “Hydrolysis chamber”**

(a) “Hydrolysis chamber” means the enclosed space within which the hydrolysis of human remains is performed and any other attached, nonenclosed, mechanical components that are necessary for the safe and proper functioning of the equipment. Allowable hydrolysis chambers for the disposition of human remains shall meet or exceed State Department of Public Health and federal Centers for Disease Control and Prevention requirements applicable for destruction of human pathogens, specified in the hydrolysis chamber approval issued pursuant to Section 7639.08 of the Business and Professions Code.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 31 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7006.5. “Cremation container”**

“Cremation container” means a combustible, closed container resistant to leakage of bodily fluids into which the body of a deceased person is placed prior to insertion in a cremation chamber for cremation.

**HISTORY:** Added Stats 1993 ch 1232 § 7 (AB 598).

**§ 7006.6. “Hydrolysis container”**

(a) “Hydrolysis container” means a hydrolyzable body wrapping into which the body of a deceased person is placed prior to insertion into a hydrolysis chamber. The wrapping must consist of 100-percent protein-based material, such as silk, suede, leather, feather, fur, or wool.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 32 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7006.7. “Cremated remains container”**

“Cremated remains container” means a receptacle in which cremated remains are placed after cremation.

**HISTORY:** Added Stats 1993 ch 1232 § 8 (AB 598).



**§ 7006.8. “Hydrolyzed human remains container”**

(a) “Hydrolyzed human remains container” means a receptacle in which hydrolyzed human remains are placed after hydrolysis.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 33 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7007. “Columbarium”**

Except in Part 5 (commencing with Section 9501) of Division 8, “columbarium” means a structure, room, or other space in a building or structure containing niches for inurnment of cremated human remains in a place used, or intended to be used, and dedicated, for cemetery purposes.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 6 (SB 542).

**§ 7008. “Crematory and columbarium”**

“Crematory and columbarium” means a building or structure containing both a crematory and columbarium.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7009. “Interment”**

“Interment” means the disposition of human remains by entombment or burial in a cemetery or, in the case of cremated remains, by inurnment, placement or burial in a cemetery, or burial at sea as provided in Section 7117.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 1; Stats 1965 ch 1421 § 1; Stats 1993 ch 1232 § 9 (AB 598).

**§ 7010. “Cremation”**

“Cremation” means the process by which the following three steps are taken:

- (a) The reduction of the body of a deceased human to its essential elements by incineration.
- (b) The repositioning or moving of the body or remains during incineration to facilitate the process.
- (c) The processing of the remains after removal from the cremation chamber pursuant to Section 7010.3.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1965 ch 1421 § 2; Stats 1993 ch 1232 § 10 (AB 598); Stats 2001 ch 436 § 7 (SB 542).

**§ 7010.1. “Hydrolysis”**

(a) “Hydrolysis” means the process by which the following two steps are taken:

- (1) The reduction of the body of a deceased person to its essential organic components and bone fragments by alkaline hydrolysis. “Alkaline hydrolysis” is a process using heat or heat and applied pressure, water, and potassium hydroxide or sodium hydroxide in a hydrolysis chamber.
- (2) The processing of the remains after removal from the hydrolysis chamber pursuant to Section 7010.3.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 34 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7010.3. “Processing”**

(a) “Processing” means the removal of foreign objects, pursuant to Section 7051, and the reduction of the particle size of cremated remains or hydrolyzed human remains by mechanical means, including, but not limited to, grinding, crushing, and pulverizing to a consistency appropriate for disposition.

(b) For purposes of reduced human remains, “processing” means the removal of foreign objects, pursuant to Section 7051, and any necessary preparation for the reduced human remains to be integrated into the soil.

**HISTORY:** Added Stats 2017 ch 846 § 36 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 30 (AB 351), effective January 1, 2023.

**§ 7010.5. “Residue”**

“Residue” means human ashes, bone fragments, prostheses, and disintegrated material from the chamber itself, imbedded in cracks and uneven spaces of a cremation chamber, that cannot be removed through reasonable manual contact with sweeping or scraping equipment. Material left in the cremation chamber, after the completion of a cremation, that can be reasonably removed shall not be considered “residue.”

**HISTORY:** Added Stats 1993 ch 1232 § 12 (AB 598). Amended Stats 2001 ch 436 § 8 (SB 542).

#### **§ 7010.7. “Scattering”**

(a) “Scattering” means the authorized dispersal of cremated remains or hydrolyzed human remains at sea, in other areas of the state, or commingling in a defined area within a dedicated cemetery, in accordance with this part.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 38 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7010.8. “Integrate into soil”; “Soil amendment”**

(a) “Integrate into the soil” means the authorized addition and mixing of reduced human remains with existing soil in a defined area within a dedicated cemetery, conservation area, property where the person who has control over the disposition of the reduced human remains has obtained written permission of the property owner or governing agency, or other area in the state where integration is permitted pursuant to this division or Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code. The reduced human remains are intended to act as a soil amendment.

(b) “Soil amendment” means any material added to a soil to improve its physical properties, including, but not limited to, water retention, permeability, water infiltration, drainage, aeration, or structure.

**HISTORY:** Added Stats 2022 ch 399 § 31 (AB 351), effective January 1, 2023.

#### **§ 7011. “Inurnment”**

(a) “Inurnment” means placing cremated remains or hydrolyzed human remains in a cremated remains container or hydrolyzed human remains container suitable for placement, burial, or shipment.

(b) “Inurnment” also means placing reduced human remains in a reduced human remains container suitable for placement, burial, or shipment.

**HISTORY:** Added Stats 2017 ch 846 § 40 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 32 (AB 351), effective January 1, 2023.

#### **§ 7011.2. “Placement”**

(a) “Placement” means the placing of a container holding cremated remains or hydrolyzed human remains in a crypt, vault, or niche.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 42 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7012. “Entombment”**

“Entombment” means the process of placing human remains in a crypt or vault.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 10 (SB 542).

#### **§ 7013. “Burial”**

“Burial” means the process of placing human remains in a grave.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 2; Stats 2001 ch 436 § 11 (SB 542).

#### **§ 7014. “Grave”**

“Grave” means a space of earth in a burial park, used, or intended to be used, for the disposition of human remains.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 12 (SB 542).

#### **§ 7015. “Crypt”; “Vault”**

(a) “Crypt” or “vault” means a space in a mausoleum of sufficient size, used or intended to be used, to entomb human remains that have been neither cremated nor hydrolyzed.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 44 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7016. “Niche”**

(a) “Niche” means a space in a columbarium used, or intended to be used, for the placement of cremated human remains or hydrolyzed human remains.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 46 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7017. “Hydrolysate”**

(a) “Hydrolysate” means the resultant liquid from the hydrolysis of human remains, which liquid is a sterile, benign, micronutrient-rich solution consisting of sugars, salts, peptides, and amino acids. Hydrolysate and calcium phosphate “ashes” are the two end results from the alkaline hydrolysis process.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 47 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7018. “Cemetery authority”**

“Cemetery authority” includes cemetery association, corporation sole, limited liability company, or other person owning or controlling cemetery lands or property.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 2.5; Stats 2008 ch 114 § 3 (SB 1225), effective January 1, 2009.

#### **§ 7019. “Cemetery corporation,” “cemetery association,” and “cemetery corporation or association”**

“Cemetery corporation,” “cemetery association,” or “cemetery corporation or association,” mean any corporation now or hereafter organized which is or may be authorized by its articles to conduct any one or more or all of the businesses of a cemetery, but do not mean or include a corporation sole.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 7020. “Cemetery business,” “cemetery businesses,” and “cemetery purposes”**

“Cemetery business,” “cemetery businesses,” and “cemetery purposes” are used interchangeably and mean any and all business and purposes requisite to, necessary for, or incident to, establishing, maintaining, operating, improving, or conducting a cemetery, interring human remains, and the care, preservation, and embellishment of cemetery property, including, but not limited to, any activity or business designed for the benefit, service, convenience, education, or spiritual uplift of property owners or persons visiting the cemetery.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1955 ch 595 § 5.

#### **§ 7021. “Directors” or “governing body”**

“Directors” or “governing body” means the board of directors, board of trustees, or other policymaking body of a cemetery association.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 15 (SB 542).

#### **§ 7022. “Lot,” “plot,” and “interment plot”**

“Lot,” “plot,” or “interment plot” means space in a cemetery, used or intended to be used for the interment of human remains. Such terms include and apply to one or more than one adjoining graves, one or more than one adjoining crypts or vaults, or one or more than one adjoining niches.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 7023. “Plot owner,” “owner,” or “lot proprietor”**

“Plot owner,” “owner,” or “lot proprietor,” means any person in whose name an interment plot stands of record as owner, in the office of a cemetery authority.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 Ch 339 § 3.

#### **§ 7024. “Permit for Disposition of Human Remains”**

“Permit for Disposition of Human Remains” includes “burial permit” and is a permit, issued pursuant to law, for the interment, disinterment, removal, reinterment or transportation of human remains.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1957 ch 363 § 5.

#### **§ 7025. “Disposition”**

“Disposition” means the interment, integration into soil, or scattering of human remains within California, or the shipment outside of California, for lawful interment, integration into soil, or scattering elsewhere, including release of remains pursuant to Section 103060.

**HISTORY:** Added Stats 1993 ch 1232 § 16 (AB 598). Amended Stats 1996 ch 1023 § 190 (SB 1497), effective September 29, 1996; Stats 2022 ch 399 § 33 (AB 351), effective January 1, 2023.

## CHAPTER 2 GENERAL PROVISIONS

### Section

- 7050.5. Interference with remains as misdemeanor; Discovery of remains
- 7051. Unauthorized removal of remains
- 7051.5. Unauthorized removal or possession of dental gold or silver from human remains
- 7052. Unlawful handling of remains
- 7052.5. Permitted removal of cremated remains for burial at sea
- 7053. Illegal seizure or detention of human remains or failure to release remains, personal effects, or certificate or permit as misdemeanor
- 7054. Illegal disposition of remains outside cemetery; Exceptions
- 7054.1. Disposal of cremated remains
- 7054.3. Disposal of dead human fetus
- 7054.4. Disposal of human tissues after scientific use
- 7054.6. Permitted removal of cremated remains
- 7054.7. Separation of remains; Information to be included on acknowledgement form; Violation as misdemeanor
- 7054.8. Express written permission to dispose of remains required
- 7054.9. Restrictions without express written consent [Operative January 1, 2027]
- 7055. Illegal interment, incineration, or removal without permit; Exceptions to permit process [Repealed effective January 1, 2027]
- 7055. Illegal interment, incineration, or removal without permit; Exceptions to permit process [Operative January 1, 2027]

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7050.5. Interference with remains as misdemeanor; Discovery of remains

(a) Every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor, except as provided in Section 5097.99 of the Public Resources Code. The provisions of this subdivision shall not apply to any person carrying out an agreement developed pursuant to subdivision (I) of Section 5097.94 of the Public Resources Code or to any person authorized to implement Section 5097.98 of the Public Resources Code.

(b) In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains.

(c) If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

**HISTORY:** Added Stats 1982 ch 1492 § 3. Amended Stats 1987 ch 404 § 1.

### § 7051. Unauthorized removal of remains

(a) A person who removes part of any human remains from a place where it has been interred, or from a place where it is deposited while awaiting interment, cremation, reduction, or hydrolysis, with intent to sell it or to dissect it, without authority of law, or written permission of the person or persons having the right to control the remains under Section 7100, or with malice or wantonness, has committed a public offense that is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

(b) This section does not prohibit the removal of foreign materials, pacemakers, or prostheses from cremated, reduced, or hydrolyzed human remains by an employee of a licensed crematory, reduction facility, or hydrolysis facility prior to final processing of remains. Dental gold or silver, jewelry, or mementos, to the extent that they can be identified, may be removed by the employee prior to final processing if the equipment is such that it will not process these materials. However, any dental gold and silver, jewelry, or mementos that are removed shall be returned to the urn, cremated remains container, reduced human remains container, or

hydrolyzed human remains container, unless otherwise directed by the person or persons having the right to control the disposition.

**HISTORY:** Added Stats 2017 ch 846 § 49 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 34 (AB 351), effective January 1, 2023.

#### **§ 7051.5. Unauthorized removal or possession of dental gold or silver from human remains**

A person who removes or possesses dental gold or silver, jewelry, or mementos from human remains without specific written permission of the person or persons having the right to control those remains under Section 7100 is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code. The fact that residue and any unavoidable dental gold or dental silver, or other precious metals remain in the cremation chamber, reduction chamber, hydrolysis chamber, or other equipment or a container used in a prior cremation, reduction, or hydrolysis is not a violation of this section.

**HISTORY:** Added Stats 2017 ch 846 § 51 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 35 (AB 351), effective January 1, 2023.

#### **§ 7052. Unlawful handling of remains**

(a) A person who willfully mutilates, disinters, removes from the place of interment, or commits an act of sexual penetration on, or has sexual contact with, remains known to be human, without authority of law, is guilty of a felony. This section does not apply to a person who, under authority of law, removes the remains for reinterment, or performs a cremation, reduction, or hydrolysis.

(b) For purposes of this section, the following definitions apply:

(1) "Sexual penetration" means the unlawful penetration of the vagina or anus, however slight, by any part of a person's body or other object, or any act of sexual contact between the sex organs of a person and the mouth or anus of a dead body, or any oral copulation of a dead human body for the purpose of sexual arousal, gratification, or abuse.

(2) "Sexual contact" means any willful touching by a person of an intimate part of a dead human body for the purpose of sexual arousal, gratification, or abuse.

**HISTORY:** Added Stats 2017 ch 846 § 53 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 36 (AB 351), effective January 1, 2023.

#### **§ 7052.5. Permitted removal of cremated remains for burial at sea**

Notwithstanding the provisions of Section 7052, cremated, reduced, or hydrolyzed human remains may be removed from the place of interment for disposition as provided in Section 7054.5 or 7054.6 or for burial at sea as provided in Section 7117.

**HISTORY:** Added Stats 2017 ch 846 § 55 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 37 (AB 351), effective January 1, 2023.

#### **§ 7053. Illegal seizure or detention of human remains or failure to release remains, personal effects, or certificate or permit as misdemeanor**

Every person who arrests, attaches, detains, or claims to detain any human remains for any debt or demand, or upon any pretended lien or charge, or fails to release any human remains, the personal effects, or any certificate or permit required under Division 102 (commencing with Section 102100) that is in his or her possession or control forthwith upon the delivery of authorization for the release signed by the next of kin or by any person entitled to the custody of the remains, is guilty of a misdemeanor.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1953 ch 1037 § 1; Stats 2003 ch 874 § 34 (SB 363).

#### **§ 7054. Illegal disposition of remains outside cemetery; Exceptions**

(a)(1) Except as authorized pursuant to the sections referred to in subdivision (b), a person who deposits or disposes of human remains in any place, except in a cemetery, is guilty of a misdemeanor.

(2) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code and the agents and employees of the licensee or registrant, or an unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who, except as authorized pursuant to the sections referred to in subdivision (b), deposits or disposes of human remains in any place, except in a cemetery, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or both that imprisonment and fine.



(b)(1) Cremated remains or hydrolyzed human remains may be disposed of pursuant to Sections 7054.6, 7116, 7117, and 103060.

(2) Reduced human remains may be disposed of pursuant to Sections 7054.5, 7116, and 103060.

(c) Subdivision (a) of this section shall not apply to the reburial of Native American remains under an agreement developed pursuant to subdivision (l) of Section 5097.94 of the Public Resources Code, or implementation of a recommendation or agreement made pursuant to Section 5097.98 of the Public Resources Code.

**HISTORY:** Added Stats 2017 ch 846 § 57 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 38 (AB 351), effective January 1, 2023.

#### **§ 7054.1. Disposal of cremated remains**

Cremated, reduced, or hydrolyzed human remains shall not be removed from the place of cremation, reduction, or hydrolysis, and there shall not be a charge for the cremation, reduction, or hydrolysis, unless the remains have been processed so that they are suitable for inurnment. Every contract for cremation, reduction, or hydrolysis services shall include specific written notification of the processing to the person having the right to control the disposition of the remains under Section 7100.

**HISTORY:** Added Stats 2017 ch 846 § 59 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 § 39 (AB 351), effective January 1, 2023.

#### **§ 7054.3. Disposal of dead human fetus**

Notwithstanding any other provision of law, a recognizable dead human fetus of less than 20 weeks uterogestation not disposed of by interment shall be disposed of by incineration.

**HISTORY:** Added Stats 1971 ch 377 § 1.

#### **§ 7054.4. Disposal of human tissues after scientific use**

Notwithstanding any other provision of law, recognizable anatomical parts, human tissues, anatomical human remains, or infectious waste following conclusion of scientific use shall be disposed of by interment, incineration, or any other method determined by the state department to protect the public health and safety.

As used in this section, "infectious waste" means any material or article which has been, or may have been, exposed to contagious or infectious disease.

**HISTORY:** Added Stats 1971 ch 377 § 2. Amended Stats 1972 ch 883 § 4, effective August 14, 1972.

#### **§ 7054.6. Permitted removal of cremated remains**

(a) Except as provided in subdivision (b), cremated remains or hydrolyzed human remains may be removed in a durable container from the place of cremation, hydrolysis, or interment and kept in or on the real property owned or occupied by a person described in Section 7100 or any other person, with the permission of the person with the right to disposition, or the durable container holding the cremated remains or hydrolyzed human remains may be kept in a church or religious shrine, if written permission of the church or religious shrine is obtained and there is no conflict with local use permit requirements or zoning laws, if the removal is under the authority of a permit for disposition granted under Section 103060. The placement, in any place, of six or more cremated remains or hydrolyzed human remains under this section does not constitute the place a cemetery, as defined in Section 7003.

(b) Notwithstanding any other provision of law, cremated remains or hydrolyzed human remains may be placed in one or more keepsake urns. Keepsake urns shall be kept as authorized by the person or persons with the right to control disposition pursuant to Section 7100, provided that a permit for disposition of human remains pursuant to Section 103060 is issued by the local registrar for each keepsake urn designating the home address of each person receiving a keepsake urn and a permit fee pursuant to Section 103065 is paid. No keepsake urn shall be subject to Section 8345. For purposes of this section, a keepsake urn shall mean a closed durable container that will accommodate an amount of cremated remains or hydrolyzed human remains not to exceed one cubic centimeter.

(c) Prior to disposition of cremated remains or hydrolyzed human remains, every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee or registrant shall do all of the following:

(1) Remove the cremated remains or hydrolyzed human remains from the place of cremation or hydrolysis in a durable container.

(2) Keep the cremated remains or hydrolyzed human remains in a durable container.

(3) Store the cremated remains or hydrolyzed human remains in a place free from exposure to the elements.

(4) Responsibly maintain the cremated remains or hydrolyzed human remains.

(d) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 61 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 7054.7. Separation of remains; Information to be included on acknowledgement form; Violation as misdemeanor**

(a) Except with the express written permission of the person entitled to control the disposition of the remains, no person shall:

(1) Cremate the remains of more than one person at the same time in the same cremation chamber, or introduce the remains of a second person into a cremation chamber until incineration of any preceding remains has been terminated and reasonable efforts have been employed to remove all fragments of the preceding remains. The fact that there is residue in the cremation chamber or other equipment or any container used in a prior cremation is not a violation of this section.

(2) Dispose of or scatter cremated remains in a manner or in a location that the remains are commingled with those of another person. This paragraph shall not apply to the scattering of cremated remains at sea from individual containers or to the disposal in a dedicated cemetery of accumulated residue removed from a cremation chamber or other cremation equipment.

(3) Place cremated or uncremated remains of more than one person in the same container or the same interment space. This paragraph shall not apply to the following:

(A) Interment of members of the same family in a common container designed for the cremated remains of more than one person.

(B) Interment in a space or container that has been previously designated at the time of sale as being intended for the interment of remains of more than one person.

(C) Disposal in a dedicated cemetery of residue removed from a cremation chamber or other cremation equipment.

(b) Written acknowledgement from the person entitled to control the disposition of the cremated remains shall be obtained by the person with whom arrangements are made for disposition of the remains on a form that includes, but is not limited to, the following information: "The human body burns with the casket, container, or other material in the cremation chamber. Some bone fragments are not combustible at the incineration temperature and, as a result, remain in the cremation chamber. During the cremation, the contents of the chamber may be moved to facilitate incineration. The chamber is composed of ceramic or other material which disintegrates slightly during each cremation and the product of that disintegration is commingled with the cremated remains. Nearly all of the contents of the cremation chamber, consisting of the cremated remains, disintegrated chamber material, and small amounts of residue from previous cremations, are removed together and crushed, pulverized, or ground to facilitate inurnment or scattering. Some residue remains in the cracks and uneven places of the chamber. Periodically, the accumulation of this residue is removed and interred in a dedicated cemetery property, or scattered at sea." The acknowledgment shall be filed and retained, for at least five years, by the person who disposes of or inters the remains.

(c) Any person, including any corporation or partnership, knowingly violating any provision of this section is guilty of a misdemeanor.

**HISTORY:** Added Stats 1983 ch 1022 § 1. Amended Stats 1988 ch 1620 § 4; Stats 1993 ch 1232 § 21 (AB 598); Stats 1994 ch 570 § 7 (AB 1392).

**§ 7054.8. Express written permission to dispose of remains required**

(a) Except with the express written permission of the person entitled to control the disposition of the remains, no person shall do any of the following:

(1) Hydrolyze the remains of more than one person at the same time in the same hydrolysis chamber, or introduce the remains of a second person into a hydrolysis chamber until dissolution of any preceding remains has been terminated and reasonable efforts have been employed to remove all fragments of the preceding remains. The fact that there is residue in the hydrolysis chamber or other equipment or any container used in a prior hydrolysis is not a violation of this section.

(2) Dispose of or scatter hydrolyzed human remains in a manner or in such a location that the remains are commingled with those of another person. This paragraph shall not apply to the scattering of hydrolyzed human remains at sea from individual containers or to the disposal in a dedicated cemetery of accumulated residue removed from processing equipment.

(3) Place hydrolyzed human remains or other remains of more than one person in the same container or the same interment space. This paragraph shall not apply to the following:

(A) Interment of members of the same family in a common container designed for the hydrolyzed human remains of more than one person.

(B) Interment in a space or container that has been previously designated at the time of sale as being intended for the interment of remains of more than one person.

(C) Disposal in a dedicated cemetery of residue removed from processing equipment.

(b) Written acknowledgment from the person entitled to control the disposition of the hydrolyzed human remains shall be obtained by the person with whom arrangements are made for disposition of the remains on a form that includes, but is not limited to, the following information: "The human body is hydrolyzed with organic protein-based material such as wool, silk, cotton, or other protein-based material in the hydrolysis chamber. Bone fragments are not hydrolyzable and, as a result, remain in the chamber. The hydrolyzed remains will be dried and crushed, pulverized, or ground to facilitate inurnment or scattering." The acknowledgment shall be filed and retained, for at least five years, by the person who disposes of or interments the remains.

(c) A person, including any corporation or partnership, that violates any provision of this section is guilty of a misdemeanor.

(d) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 62 (AB 967), effective January 1, 2018, operative July 1, 2020.

#### **§ 7054.9. Restrictions without express written consent [Operative January 1, 2027]**

(a) Except with the express written permission of the person entitled to control the disposition of the reduced human remains, a person shall not do any of the following:

(1) Reduce the remains of more than one person at the same time and in the same reduction chamber, or introduce the remains of a second person into the reduction chamber until the reduction of preceding remains has been terminated and reasonable efforts have been employed to remove all fragments of preceding remains. The fact that there is residue in the reduction chamber or other equipment or a container used in a prior reduction does not violate this section.

(2) Dispose of reduced human remains in a manner or location that the remains are commingled with those of another person. This paragraph does not apply to the disposition of accumulated residue removed from equipment used in the reduction of human remains.

(3) Place reduced human remains or the remains of more than one person in the same reduced human remains container, except as follows:

(A) Members of the same family may be placed in a common container designed for the reduced remains of more than one person.

(B) Reduced human remains may be placed in a container that has been previously designated, at the time of sale, as being intended for the remains of more than one person.

(C) Disposal of the residue removed from equipment used in the reduction of human remains.

(b)(1) A person, including a corporation or partnership, that violates this section is guilty of a misdemeanor.

(2) Written authorization by the person entitled to control the disposition of the remains for the reduction facility to integrate the reduced human remains into the soil of a conservation area, as provided in Section 7054.5, is sufficient to comply with the permission requirement of subdivision (a).

(c) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 41 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 7055. Illegal interment, incineration, or removal without permit; Exceptions to permit process [Repealed effective January 1, 2027]**

(a) A person, who for themselves or for another person, interments, cremates, or hydrolyzes a body or permits the same to be done, or removes any remains, other than cremated remains or hydrolyzed human remains, from the primary registration district in which the death, cremation, or hydrolysis occurred or the body was found, except a removal by a funeral director in a funeral director's conveyance or an officer of a duly accredited medical college engaged in official duties with respect to the body of a decedent who has willfully donated their body to the medical college from that registration district or county to another registration district or county, or within the same registration district or county, without the authority of a burial or removal permit issued by the local registrar of the district in which the death occurred or in which the body was found; or removes interred human remains from the cemetery in which the interment occurred, removes cremated remains from the premises on which the cremation occurred, or removes hydrolyzed human remains from the premises on which the hydrolysis occurred without the authority of a removal permit is guilty of a misdemeanor and punishable as follows:

(1) For the first offense, by a fine of not less than ten dollars (\$10) nor more than five hundred dollars (\$500).

(2) For each subsequent offense, by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or imprisonment in the county jail for not more than 60 days, or by both.

(b) Notwithstanding subdivision (a), a funeral director of a licensed out-of-state funeral establishment may transport human remains out of this state without a removal permit when acting within the requirements specified in subdivision (b) of Section 103050.

(c) This section shall remain in effect only until January 1, 2027, and as of that date is repealed. §

**HISTORY:** Added Stats 2017 ch 846 § 64 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 42 (AB 351), effective January 1, 2023, repealed January 1, 2027.

### **§ 7055. Illegal interment, incineration, or removal without permit; Exceptions to permit process [Operative January 1, 2027]**

(a) A person who, for themselves or for another person, inters, cremates, reduces, or hydrolyzes a body or permits the same to be done, or removes any remains, other than cremated, reduced, or hydrolyzed human remains, from the primary registration district in which the death, cremation, reduction, or hydrolysis occurred or the body was found, except a removal by a funeral director in a funeral director's conveyance or an officer of a duly accredited medical college engaged in official duties with respect to the body of a decedent who has willfully donated their body to the medical college from that registration district or county to another registration district or county, or within the same registration district or county, without the authority of a burial or removal permit issued by the local registrar of the district in which the death occurred or in which the body was found; or removes interred human remains from the cemetery in which the interment occurred, removes cremated remains from the premises on which the cremation occurred, removes reduced human remains from the premises on which the reduction occurred, or removes hydrolyzed human remains from the premises on which the hydrolysis occurred without the authority of a removal permit is guilty of a misdemeanor and punishable as follows:

(1) For the first offense, by a fine of not less than ten dollars (\$10) nor more than five hundred dollars (\$500).

(2) For each subsequent offense, by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or imprisonment in the county jail for not more than 60 days, or by both.

(b) Notwithstanding subdivision (a), a funeral director of a licensed out-of-state funeral establishment may transport human remains out of this state without a removal permit when the funeral director is acting within the requirements specified in subdivision (b) of Section 103050.

(c) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 43 (AB 351), effective January 1, 2023, operative January 1, 2027.

## **CHAPTER 3 CUSTODY, AND DUTY OF INTERMENT**

### **Section**

- 7100. Right to control disposition of remains of deceased person
- 7100.1. Directions by decedent concerning disposition of remains and funeral goods and services
- 7101. Charge for, and payment of, cost of interment, plot, memorial, and funeral services
- 7102. Persons entitled to custody of remains; Rights of coroner
- 7103. Criminal offense and civil liability
- 7104. Coroner's interment of indigent dead; Costs
- 7104.1. Coroner's interment of remains; Recovery of expenses
- 7105. Right to control disposition of decedent's remains and arrange for funeral goods and services; Petition for order controlling disposition of decedent's remains
- 7106. Cemetery authority's petition, and order respecting several remains
- 7107. Notice, hearing, and order
- 7108. Execution of order by coroner
- 7109. Costs and attorney's fees
- 7110. Warranty and liability of signer of authorization for interment or cremation
- 7111. Authorization for interment or cremation by cemetery authority
- 7112. Limitations on liability respecting cremated remains
- 7113. Authorization for autopsy
- 7114. Offense of performing autopsy without authorization
- 7116. Remains scattered or placed in certain areas
- 7117. Burial of cremated remains at sea; Statement furnished local registrar
- 7117.1. Transfer of cremated remains from durable container into "scattering urn"

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7100. Right to control disposition of remains of deceased person**

(a) The right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services to be provided, unless other directions have



been given by the decedent pursuant to Section 7100.1, vests in, and the duty of disposition and the liability for the reasonable cost of disposition of the remains devolves upon, the following in the order named:

(1) An agent under a power of attorney for health care who has the right and duty of disposition under Division 4.7 (commencing with Section 4600) of the Probate Code, except that the agent is liable for the costs of disposition only in either of the following cases:

(A) Where the agent makes a specific agreement to pay the costs of disposition.

(B) Where, in the absence of a specific agreement, the agent makes decisions concerning disposition that incur costs, in which case the agent is liable only for the reasonable costs incurred as a result of the agent's decisions, to the extent that the decedent's estate or other appropriate fund is insufficient.

(2) The competent surviving spouse.

(3) The sole surviving competent adult child of the decedent or, if there is more than one competent adult child of the decedent, the majority of the surviving competent adult children. However, less than the majority of the surviving competent adult children shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult children.

(4) The surviving competent parent or parents of the decedent. If one of the surviving competent parents is absent, the remaining competent parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving competent parent.

(5) The sole surviving competent adult sibling of the decedent or, if there is more than one surviving competent adult sibling of the decedent, the majority of the surviving competent adult siblings. However, less than the majority of the surviving competent adult siblings shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult siblings of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult siblings.

(6) The surviving competent adult person or persons respectively in the next degrees of kinship or, if there is more than one surviving competent adult person of the same degree of kinship, the majority of those persons. Less than the majority of surviving competent adult persons of the same degree of kinship shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving competent adult persons of the same degree of kinship of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult persons of the same degree of kinship.

(7) A conservator of the person appointed under Part 3 (commencing with Section 1800) of Division 4 of the Probate Code when the decedent has sufficient assets.

(8) A conservator of the estate appointed under Part 3 (commencing with Section 1800) of Division 4 of the Probate Code when the decedent has sufficient assets.

(9) The public administrator when the deceased has sufficient assets.

(b)(1) If a person to whom the right of control has vested pursuant to subdivision (a) has been charged with first- or second-degree murder or voluntary manslaughter in connection with the decedent's death and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next of kin in accordance with subdivision (a).

(2) If the charges against the person are dropped, or if the person is acquitted of the charges, the right of control is returned to the person.

(3) Notwithstanding this subdivision, no person who has been charged with first- or second-degree murder or voluntary manslaughter in connection with the decedent's death to whom the right of control has not been returned pursuant to paragraph (2) shall have any right to control disposition pursuant to subdivision (a) which shall be applied, to the extent the funeral director or cemetery authority know about the charges, as if that person did not exist.

(c) A funeral director or cemetery authority shall have complete authority to control the disposition of the remains and to proceed under this chapter to recover usual and customary charges for the disposition when both of the following apply:

(1) Either of the following applies:

(A) The funeral director or cemetery authority has knowledge that none of the persons described in paragraphs (1) to (8), inclusive, of subdivision (a) exists.

(B) None of the persons described in paragraphs (1) to (8), inclusive, of subdivision (a) can be found after reasonable inquiry, or contacted by reasonable means.

(2) The public administrator fails to assume responsibility for disposition of the remains within seven days after having been given written notice of the facts. Written notice may be delivered by hand, United States mail, facsimile transmission, or telegraph.



(d) The liability for the reasonable cost of final disposition devolves jointly and severally upon all kin of the decedent in the same degree of kinship and upon the estate of the decedent. However, if a person accepts the gift of an entire body under subdivision (a) of Section 7155.5, that person, subject to the terms of the gift, shall be liable for the reasonable cost of final disposition of the decedent.

(e) This section shall be administered and construed to the end that the expressed instructions of the decedent or the person entitled to control the disposition shall be faithfully and promptly performed.

(f) A funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition.

(g) For purposes of this section, "adult" means an individual who has attained 18 years of age, "child" means a natural or adopted child of the decedent, and "competent" means an individual who has not been declared incompetent by a court of law or who has been declared competent by a court of law following a declaration of incompetence.

(h)(1) For the purpose of paragraph (1) of subdivision (a), the designation of a person authorized to direct disposition (PADD) on a United States Department of Defense Record of Emergency Data, DD Form 93, as that form exists on December 31, 2011, or its successor form, shall take first priority and be used to establish an agent who has the right and duty of disposition for a decedent who died while on duty in any branch or component of the Armed Forces of the United States, as defined by Section 1481 of Title 10 of the United States Code.

(2) This subdivision shall become operative only if the United States Department of Defense Record of Emergency Data, DD Form 93, and Section 1482(c) of Title 10 of the United States Code are amended to allow a service member to designate any person, regardless of the relationship of the designee to the decedent, as the agent who has the right of disposition of a service member's remains.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1947 ch 125 § 1; Stats 1957 ch 933 § 1; Stats 1965 ch 654 § 1; Stats 1968 ch 926 § 1; Stats 1969 ch 999 § 1; Stats 1970 ch 960 § 3, ch 1006 § 1.5; Stats 1993 ch 1232 § 22 (AB 598); Stats 1994 ch 570 § 8 (AB 1392); Stats 1997 ch 475 § 23 (AB 1546); Stats 1998 ch 253 § 1 (SB 1360); Stats 1999 ch 657 § 36 (AB 1677); Stats 1999 ch 658 § 5.5 (AB 891), operative July 1, 2000; Stats 2001 ch 230 § 1 (AB 1278); Stats 2004 ch 307 § 1 (AB 2811); Stats 2011 ch 308 § 8 (SB 647), effective January 1, 2012, ch 321 § 1.5 (AB 905), effective January 1, 2012.

#### **§ 7100.1. Directions by decedent concerning disposition of remains and funeral goods and services**

(a) A decedent, prior to death, may direct, in writing, the disposition of his or her remains and specify funeral goods and services to be provided. Unless there is a statement to the contrary that is signed and dated by the decedent, the directions may not be altered, changed, or otherwise amended in any material way, except as may be required by law, and shall be faithfully carried out upon his or her death, provided both of the following requirements are met: (1) the directions set forth clearly and completely the final wishes of the decedent in sufficient detail so as to preclude any material ambiguity with regard to the instructions; and, (2) arrangements for payment through trusts, insurance, commitments by others, or any other effective and binding means, have been made, so as to preclude the payment of any funds by the survivor or survivors of the deceased that might otherwise retain the right to control the disposition.

(b) In the event arrangements for only one of either the cost of interment or the cost of the funeral goods and services are made pursuant to this section, the remaining wishes of the decedent shall be carried out only to the extent that the decedent has sufficient assets to do so, unless the person or persons that otherwise have the right to control the disposition and arrange for funeral goods and services agree to assume the cost. All other provisions of the directions shall be carried out.

(c) If the directions are contained in a will, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

**HISTORY:** Added Stats 1997 ch 475 § 24 (AB 1546). Amended Stats 1998 ch 253 § 2 (SB 1360).

#### **§ 7101. Charge for, and payment of, cost of interment, plot, memorial, and funeral services**

When any decedent leaves an estate in this state, the reasonable cost of interment and an interment plot of sufficient size to constitute a family plot and memorial including reasonable sums for either, or both, general and special endowment care of the plot proportionate to the value of the estate and in keeping with the standard of living adopted by the decedent prior to his demise, together with interest thereon from 60 days after the date of death, shall be considered as a part of the funeral expenses of the decedent and shall be paid as a preferred charge against his estate as provided in the Probate Code.

Reasonable costs of funeral services, together with interest thereon from 60 days after the date of death, shall be considered as a part of the funeral expenses of the decedent and shall be paid as a preferred charge against his estate as provided in the Probate Code.

If a claim for mortuary and funeral services, an interment plot or memorial is rejected the burden of proving that the cost of the funeral service, interment plot or memorial is disproportionate to the value of the estate and the standard of living adopted by the decedent while living shall be upon the executor or administrator rejecting the claim. This chapter does not prohibit any relative or friend of a decedent from assuming the duty or paying the expense of interment or the funeral services.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 5.5; Stats 1951 ch 176 § 7; Stats 1967 ch 1617 § 1; Stats 1968 ch 267 § 1.

### **§ 7102. Persons entitled to custody of remains; Rights of coroner**

When a person is charged by law with the duty of interment he is entitled to the custody of the remains for the purpose of interment or, with respect to cremated remains, for the purpose of burial at sea in accordance with the provisions of this division; except that in any case where a coroner is required by law to investigate the cause of death, the coroner is entitled to the custody of the remains of the person whose death is the subject of investigation until the conclusion of the autopsy or medical investigation by the coroner. Any person in whose possession such remains are found, shall, upon demand by the coroner, surrender such remains to him.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1965 ch 1421 § 7.

### **§ 7103. Criminal offense and civil liability**

(a) Every person, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee or registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or both that imprisonment and fine.

(c) In addition, any person, registrant, or licensee described in subdivision (a) or (b) is liable to pay the person performing the duty in his or her stead treble the expenses incurred by the latter in making the interment, to be recovered in a civil action.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2002 ch 819 § 6 (SB 17); Stats 2018 ch 92 § 137 (SB 1289), effective January 1, 2019; Stats 2018 ch 571 § 32 (SB 1480), effective January 1, 2019 (ch 571 prevails).

### **§ 7104. Coroner's interment of indigent dead; Costs**

(a) When no provision is made by the decedent, or where the estate is insufficient to provide for interment and the duty of interment does not devolve upon any other person residing in the state or if such person can not after reasonable diligence be found within the state the person who has custody of the remains may require the coroner of the county where the decedent resided at time of death to take possession of the remains and the coroner shall inter the remains in the manner provided for the interment of indigent dead.

(b) A county exercising jurisdiction over the death of an individual pursuant to Section 27491, or who assumes jurisdiction pursuant to Section 27491.55 of the Government Code, shall be responsible for the disposition of the remains of that decedent. If the decedent is an indigent, the costs associated with disposition of the remains shall be borne by the county exercising jurisdiction.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 5; Stats 1988 ch 1139 § 2.

#### **§ 7104.1. Coroner's interment of remains; Recovery of expenses**

If, within 30 days after the coroner notifies or diligently attempts to notify the person responsible for the interment of a decedent's remains which are in the possession of the coroner, the person fails, refuses, or neglects to inter the remains, the coroner may inter the remains. The coroner may recover any expenses of the interment from the responsible person.

**HISTORY:** Added Stats 1992 ch 1020 § 3.3 (SB 1599). Amended Stats 2001 ch 436 § 18 (SB 542).

### **§ 7105. Right to control disposition of decedent's remains and arrange for funeral goods and services; Petition for order controlling disposition of decedent's remains**

(a) If the person or persons listed in paragraphs (1), (3), (4), (5), (6), (7), and (8) of subdivision (a) of Section 7100 who would otherwise have the right to control the disposition and arrange for funeral goods and services fails to act, or fails to delegate his or her authority to act to some other person within seven days of

the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(b) If the person or persons listed in paragraphs (1), (3), (4), (5), (6), (7), and (8) of subdivision (a) of Section 7100 who would otherwise have the right to control the disposition and arrange for funeral goods and services cannot be found within seven days of the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, after reasonable inquiry, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(c) If any persons listed in paragraphs (1), (3), (4), (5), (6), (7), and (8) of subdivision (a) of Section 7100 who would otherwise have equal rights to control the disposition and arrange for funeral goods and services fail to agree on disposition and funeral goods and services to be provided within seven days of the date on which the right and duty of disposition devolved upon the persons, a funeral establishment or a cemetery authority having possession of the remains, or any person who has equal right to control the disposition of the remains may file a petition in the superior court in the county in which the decedent resided at the time of his or her death, or in which the remains are located, naming as a party to the action those persons who would otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties will have the control of disposition and to direct that person to make interment of the remains. The court, at the time of determining the person to whom the right of disposition will vest, shall, from the remaining parties to the action, establish an alternate order to whom the right to control disposition will pass if the person vested with the right to control disposition fails to act within seven days.

(d) If the person vested with the duty of interment has criminal charges pending against him or her for the unlawful killing of the decedent, in violation of Section 187 of, or subdivision (a) or (b) of Section 192 of, the Penal Code, the person or persons with the next highest priority prescribed by Section 7100 may petition a court of competent jurisdiction for an order for control of the disposition of the decedent's remains. For this purpose, it shall be conclusively presumed that the petitioner is the person entitled to control the disposition of the remains if the petitioner is next in the order of priority specified in Section 7100.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 6; Stats 1987 ch 273 § 1; Stats 2004 ch 307 § 2 (AB 2811); Stats 2006 ch 96 § 1 (AB 886), effective January 1, 2007; Stats 2016 ch 39 § 1 (SB 1284), effective January 1, 2017.

#### **§ 7106. Cemetery authority's petition, and order respecting several remains**

A cemetery authority may seek an order providing for the interment of the remains of one or more decedents. Where a proceeding is commenced involving the remains of more than one decedent the allegations of the petition shall separately state the facts as to each, and the court may make a separate order as to each.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 7107. Notice, hearing, and order**

Notice of the time and place of the hearing on the petition shall be given as the court may direct. Upon the hearing the court shall make its order providing for the interment of the remains in such manner, at such time, and at such place as the court may determine to be just and proper, and for the best interests of the public health.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 7108. Execution of order by coroner**

If the coroner is directed to make such interment he shall make it in the manner provided by law for the interment of the indigent dead.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 7.

#### **§ 7109. Costs and attorney's fees**

The court shall allow costs and reasonable attorney's fees to a prevailing plaintiff against all defendants, other than the coroner.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 19 (SB 542).

**§ 7110. Warranty and liability of signer of authorization for interment or cremation**

Any person signing any authorization for the interment or cremation of any remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose remains are sought to be interred or cremated, and his or her authority to order interment or cremation. He or she is personally liable for all damage occasioned by or resulting from breach of such warranty.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1993 ch 1232 § 23 (AB 598).

**§ 7111. Authorization for interment or cremation by cemetery authority**

A cemetery authority or crematory may make an interment or cremation of any remains upon the receipt of a written authorization of a person representing himself or herself to be a person having the right to control the disposition of the remains pursuant to Section 7100.

A cemetery authority or crematory is not liable for cremating, making an interment, or for other disposition of remains permitted by law, pursuant to that authorization, unless it has actual notice that the representation is untrue.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1993 ch 1232 § 24 (AB 598); Stats 2002 ch 819 § 7 (SB 17).

**§ 7112. Limitations on liability respecting cremated remains**

No action shall lie against any cemetery authority relating to the cremated remains of any person which have been left in its possession for a period of one year, unless a written contract has been entered into with the cemetery authority for their care or unless permanent interment has been made.

No licensed funeral director shall be liable in damages for the lawful disposition of any cremated human remains.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 458; Stats 1993 ch 1232 § 25 (AB 598).

**§ 7113. Authorization for autopsy**

A cemetery authority or licensed funeral director or a licensed hospital or its authorized personnel may permit or assist, and a physician may perform, an autopsy of any remains in its or his custody if the decedent, prior to his death, authorizes an autopsy in his will or other written instrument, or upon the receipt of a written authorization, telegram, or a verbal authorization obtained by telephone and recorded on tape or other recording device, from a person representing himself to be any of the following:

- (a) The surviving spouse;
- (b) a surviving child or parent;
- (c) a surviving brother or sister;
- (d) any other kin or person who has acquired the right to control the disposition of the remains;
- (e) a public administrator;
- (f) a coroner or any other duly authorized public officer.

A cemetery authority or a licensed funeral director or a licensed hospital or its authorized personnel is not liable for permitting or assisting, and a physician is not liable for performing, an autopsy pursuant to such authorization unless he or it has actual notice that such representation is untrue at the time the autopsy is performed. If such authorization is contained in a will, the autopsy may be performed regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

This section shall not authorize the obtaining of a verbal authorization by telephone and recorded on tape or other recording device for an autopsy of a deceased person if it is made known to the physician who is to perform the autopsy that the deceased was, at the time of his death, a member of a religion, church, or denomination which relies solely upon prayer for the healing of disease.

**HISTORY:** Added Stats 1947 ch 1293 § 1. Amended Stats 1955 ch 1334 § 1; Stats 1963 ch 424 § 1; Stats 1969 ch 1132 § 1; Stats 1971 ch 99 § 1.

**§ 7114. Offense of performing autopsy without authorization**

Any person who performs, permits or assists at, an autopsy on a dead body without having first obtained (a) the authorization of the deceased in writing, including, but not limited to, the last will of the deceased; or (b) the authorization in writing of the person designated by Section 7100 of this code as having the right to control the disposition of the remains of the deceased; or (c) in the case of a cemetery authority or a licensed funeral director or a licensed hospital or its agents or a physician, the written or verbal authorization described in Section 7113 or 7151.6 of this code, is guilty of a misdemeanor, except that this section shall



not be applicable to the performance of an autopsy by the coroner or other officer authorized by law to perform autopsies.

**HISTORY:** Added Stats 1949 ch 765 § 1. Amended Stats 1955 ch 1334 § 2; Stats 1969 ch 1132 § 2; Stats 1972 ch 1048 § 1.

#### **§ 7116. Remains scattered or placed in certain areas**

(a) Cremated remains or hydrolyzed human remains may be scattered in an area where no local prohibition exists, provided that the cremated remains or hydrolyzed human remains are not distinguishable to the public, are not in a container, and that the person who has control over disposition of the cremated remains or hydrolyzed human remains has obtained written permission of the property owner or governing agency to scatter on the property. A state or local agency may adopt an ordinance, regulation, or policy, as appropriate, authorizing, consistent with this section, or specifically prohibiting, the scattering of cremated human remains or hydrolyzed human remains on lands under the agency's jurisdiction. The scattering of the cremated remains or hydrolyzed human remains of more than one person in one location pursuant to this section shall not create a cemetery pursuant to Section 7003 or any other law.

(b) Commencing January 1, 2027, reduced human remains may be integrated into the soil in an area where no local prohibition exists, provided that the reduced human remains are not distinguishable to the public, are not in a container, and that the person who has control over disposition of the reduced human remains has obtained written permission of the property owner or governing agency to integrate into soil on the property. A state or local agency may adopt an ordinance, regulation, or policy, as appropriate, authorizing or specifically prohibiting the integration of reduced human remains into the soil on lands under the agency's jurisdiction. The integration into the soil of the reduced human remains of more than one person in one location pursuant to this section does not create a cemetery pursuant to Section 7003 or any other law.

**HISTORY:** Added Stats 2017 ch 846 § 66 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 44 (AB 351), effective January 1, 2023.

#### **§ 7117. Burial of cremated remains at sea; Statement furnished local registrar**

(a) Cremated remains or hydrolyzed human remains may be taken by boat from any harbor in this state, or by air, and scattered at sea. Cremated remains or hydrolyzed human remains shall be removed from their container before the remains are scattered at sea.

(b) Any person who scatters at sea, either from a boat or from the air, any cremated human remains or hydrolyzed human remains shall file with the local registrar of births and deaths in the county nearest the point where the remains were scattered, a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains or hydrolyzed human remains were scattered, and any other information that the local registrar of births and deaths may require. The first copy of the endorsed permit shall be filed with the local registrar of births and deaths within 10 days of disposition. The third copy shall be returned to the office of issuance.

(c) For purposes of this section, the phrase "at sea" includes the inland navigable waters of this state, exclusive of lakes and streams, provided that no such scattering may take place within 500 yards of the shoreline. This section does not allow the scattering of cremated human remains or hydrolyzed human remains from a bridge or pier.

(d) Notwithstanding any other provision of this code, the cremated remains or hydrolyzed human remains of a deceased person may be scattered at sea as provided in this section and Section 103060.

(e) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 68 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2018 ch 92 § 139 (SB 1289), effective January 1, 2019, operative July 1, 2020.

#### **§ 7117.1. Transfer of cremated remains from durable container into "scattering urn"**

(a) Notwithstanding subdivision (a) of Section 7117, cremated remains may be transferred from a durable container into a scattering urn no more than seven days before scattering the cremated remains at sea from a boat. For purposes of this section, "scattering urn" means a closed container containing cremated remains that will dissolve and release its contents within four hours of being placed at sea.

(b) This section shall not be construed to allow the use of a scattering urn when the cremated remains are to be scattered by a plane over land or at sea.

**HISTORY:** Added Stats 2012 ch 79 § 1 (AB 1777), effective January 1, 2013.

### **CHAPTER 3.5 UNIFORM ANATOMICAL GIFT ACT**



## Section

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**HISTORY:** Added Stats 2007 ch 629 § 2, effective January 1, 2008. Former Chapter 3.5, also entitled "Uniform Anatomical Gift Act," consisting of H & S C §§ 7150–7156.5, was added Stats 1988 ch 1095 § 2 and repealed Stats 2007 ch 629 § 1, effective January 1, 2008. Former Chapter 3.5, also entitled "Uniform Anatomical Gift Act," consisting of H & S C §§ 7150–7157, was added Stats 1970 ch 1006 § 3, and repealed Stats 1988 ch 1095 § 1. Former Chapter 3.5, entitled "Anatomical Gift Act," consisting of H & S C §§ 7150–7158, was added Stats 1968 ch 926 § 4 and repealed Stats 1970 ch 1006 § 2.

**§ 7150. Short title**

This chapter shall be known, and may be cited, as the Uniform Anatomical Gift Act.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

**§ 7150.10. Definitions**

(a) As used in this chapter, the following terms have the following meanings:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Agent" means an individual who meets either of the following criteria:

(A) He or she is authorized to make health care decisions on the principal's behalf by a power of attorney for health care.

(B) He or she is expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.

(5) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under Section 7150.50.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement recorded on the Donate Life California Organ and Tissue Donor Registry or other donor registry.

(6.5) "Domestic partner" means a person who is registered under Section 297 of the Family Code, or otherwise recognized under the law of any state as a domestic partner.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts, including, but not limited to, the Donate Life California Organ and Tissue Donor Registry.

(9) "Driver's license" means a license or permit issued by the Department of Motor Vehicles to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) “Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) “Hospital” means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) “Identification card” means an identification card issued by the Department of Motor Vehicles.

(14) “Know” means to have actual knowledge.

(15) “Minor” means an individual who is under 18 years of age.

(16) “Organ procurement organization” means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(17) “Parent” means a parent whose parental rights have not been terminated.

(18) “Part” means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) “Physician” means an individual authorized to practice medicine or osteopathy under the law of any state.

(21) “Procurement organization” means an eye bank, organ procurement organization, or tissue bank.

(22) “Prospective donor” means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(23) “Reasonably available” means able to be contacted by a procurement organization, without undue effort, and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(24) “Recipient” means an individual into whose body a decedent’s part has been, or is intended to be, transplanted.

(25) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) “Refusal” means a record created under Section 7150.30 that expressly states an intent to bar other persons from making an anatomical gift of an individual’s body or part.

(27) “Sign” means, to do either of the following with the present intent to authenticate or adopt a record:

(A) Execute or adopt a tangible symbol.

(B) Attach to or logically associate with the record an electronic symbol, sound, or process.

(28) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(29) “Technician” means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(30) “Tissue” means a portion of the human body other than an organ or an eye. The term does not include blood, unless a blood sample is needed for the purpose of research or education.

(31) “Tissue bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(32) “Transplant hospital” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(b) This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

### **§ 7150.15. Individuals allowed to make anatomical gift**

Subject to Section 7150.35, an anatomical gift of a donor’s body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 7150.20 by any of the following individuals:

(a) The donor, if the donor is an adult or if the donor is a minor and is either of the following:

(1) An emancipated minor.

(2) Between 15 and 18 years of age, only upon the written consent of a parent or guardian.

(b) An agent of the donor, provided that the power of attorney for health care or other record expressly permits the agent to make an anatomical gift.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

### § 7150.20. Means of making anatomical gift

(a) A donor may make an anatomical gift through any of the following:

(1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card and included on a donor database registry.

(2) Directly through the Donate Life California Organ and Tissue Donor Registry Internet Web site.

(3) In a will.

(4) During a terminal illness or injury of the donor, by any form of communication that clearly expresses the donor's wish, addressed to at least two adults, at least one of whom is a disinterested witness. The witnesses shall memorialize this communication in a writing and sign and date the writing.

(5) As provided in subdivision (b).

(b) A donor or other person authorized to make an anatomical gift under Section 7150.15 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol, indicating that the donor has made an anatomical gift, be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall comply with all of the following:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person.

(2) State that it has been signed and witnessed as provided in paragraph (1).

(c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

(e) Notwithstanding subdivision (i) of Section 7150.65, a document of gift may designate a particular physician to carry out the recovery procedures. In the absence of this designation, or if the designee is not reasonably available or is deemed by the organ procurement organization not to be qualified to perform the required procedure, the organ procurement organization may authorize another physician or technician to carry out the recovery.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

### § 7150.25. Amendment or revocation of anatomical gift

(a) Subject to Section 7150.35, a donor or other person authorized to make an anatomical gift under Section 7150.15 may amend or revoke an anatomical gift by either of the following:

(1) A record signed by any of the following and recorded in a donor registry database:

(A) The donor.

(B) The other person.

(C) Subject to subdivision (b), another individual acting at the direction of the donor or of the other person, if the donor or other person is physically unable to sign.

(2) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to subparagraph (C) of paragraph (1) of subdivision (a) shall comply with all of the following:

(1) It shall be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person.

(2) It shall state that it has been signed and witnessed as provided in paragraph (1).

(c) Subject to Section 7150.35, a donor or other person authorized to make an anatomical gift under Section 7150.15 may revoke an anatomical gift by the destruction of the document of gift or cancellation of the document of gift on a donor database registry, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness. The witnesses shall memorialize this communication in a writing and sign and date the writing.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subdivision (a).

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

**§ 7150.30. Refusal to make anatomical gift**

- (a) An individual may refuse to make an anatomical gift of the individual's body or part by any of the following:
- (1) A record signed by either of the following:
    - (A) The individual.
    - (B) Subject to subdivision (b), another individual acting at the direction of the individual if the individual is physically unable to sign.
  - (2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death.
  - (3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness. The witnesses shall memorialize this communication in a writing and sign and date the writing.
- (b) A record signed pursuant to subparagraph (B) of paragraph (1) of subdivision (a) shall comply with both of the following:
- (1) It shall be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual.
  - (2) It shall state that it has been signed and witnessed as provided in paragraph (1).
- (c) An individual who has made a refusal may amend or revoke the refusal by any of the following:
- (1) In the manner provided in subdivision (a) for making a refusal.
  - (2) By subsequently making an anatomical gift pursuant to Section 7150.20 that is inconsistent with the refusal.
  - (3) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.
- (d) Except as otherwise provided in subdivision (h) of Section 7150.35, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.
- (e) Notwithstanding any provision to the contrary, including, but not limited to, Section 7150.40, only an individual shall make an anatomical gift of all or part of that individual's body or pacemaker, if it is made known that the individual, at the time of death, was a member of a religion, church, sect, or denomination that relies solely upon prayer for healing of disease or that has religious tenets that would be violated by the disposition of the human body or parts or pacemakers for the purposes of transplantation, therapy, research, or education.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

**§ 7150.35. Person other than donor barred from making, amending, or revoking anatomical gift; Exceptions**

- (a) Except as otherwise provided in subdivision (g) and subject to subdivision (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under Section 7150.20 or an amendment to an anatomical gift of the donor's body or part under Section 7150.25.
- (b) A donor's revocation of an anatomical gift of the donor's body or part under Section 7150.25 is not a refusal and does not bar another person specified in Section 7150.15 or 7150.40 from making an anatomical gift of the donor's body or part under Section 7150.20 or 7150.45.
- (c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section 7150.20 or an amendment to an anatomical gift of the donor's body or part under Section 7150.25, another person may not make, amend, or revoke the gift of the donor's body or part under Section 7150.45.
- (d) A revocation of an anatomical gift of a donor's body or part under Section 7150.25 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section 7150.20 or 7150.45.
- (e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 7150.15, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.
- (f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 7150.15, an anatomical gift of a part for one or more of the purposes set forth in Section 7150.15 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under Section 7150.20 or 7150.45.
- (g) Notwithstanding subdivision (a), an individual who is between 15 and 18 years of age may make an anatomical gift for any purpose authorized in this chapter, may limit an anatomical gift to one or more of



those purposes, may refuse to make an anatomical gift, or may amend or revoke an anatomical gift, only upon the written consent of the parent or guardian. If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7150.40. Anatomical gift for purpose of transplantation, therapy, research, or education**

(a) Subject to subdivisions (b) and (c), and unless barred by Section 7150.30 or 7150.35, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the following order of priority:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under subdivision (b) of Section 7150.15 immediately before the decedent's death.

(2) The spouse or domestic partner of the decedent.

(3) Adult children of the decedent.

(4) Parents of the decedent.

(5) Adult siblings of the decedent.

(6) Adult grandchildren of the decedent.

(7) Grandparents of the decedent.

(8) An adult who exhibited special care and concern for the decedent during the decedent's lifetime.

(9) The persons who were acting as the guardians or conservators of the person of the decedent at the time of death.

(10)(A) Any other person having the authority to dispose of the decedent's body, including, but not limited to, a coroner, medical examiner, or hospital administrator, provided that reasonable effort has been made to locate and inform persons listed in paragraphs (1) to (9), inclusive, of their option to make, or object to making, an anatomical gift.

(B) Except in the case where the useful life of the part does not permit, a reasonable effort shall be deemed to have been made when a search for the persons has been underway for at least 12 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed.

(b) If there is more than one member of a class listed in paragraph (1), (3), (4), (5), (6), (7), or (9) of subdivision (a) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 7150.50 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person shall not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subdivision (a) is reasonably available to make, or to object to the making of, an anatomical gift.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7150.45. Gift by means of document of gift or oral communication that is electronically recorded; Oral amendment or revocation**

(a) A person authorized to make an anatomical gift under Section 7150.40 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subdivision (c), an anatomical gift by a person authorized under Section 7150.40 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under Section 7150.40 may be amended or revoked as follows:

(1) Amended only if a majority of the reasonably available members agree to the amending of the gift.

(2) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under subdivision (b) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.



**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

### § 7150.50. Recipients

- (a) An anatomical gift may be made to any of the following persons named in the document of gift:
- (1) A hospital, accredited medical school, dental school, college, university, or organ procurement organization, for research or education.
  - (2) Subject to subdivision (b), an individual designated by the person making the anatomical gift if the individual is the recipient of the part.
  - (3) An eye bank, or tissue bank.
- (b) If an anatomical gift to an individual under paragraph (2) of subdivision (a) cannot be transplanted into the individual, the part passes in accordance with subdivision (g) in the absence of an express, contrary indication by the person making the anatomical gift.
- (c) If an anatomical gift of one or more specific parts, or of all parts, is made in a document of gift that does not name a person described in subdivision (a) but identifies the purpose for which an anatomical gift may be used, all of the following rules shall apply:
- (1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.
  - (2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.
  - (3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.
  - (4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.
- (d) For the purpose of subdivision (c), if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.
- (e) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subdivision (a) and does not identify the purpose of the gift, the gift shall be used only for transplantation or therapy, and the gift passes in accordance with subdivision (g).
- (f) If a document of gift specifies only a general intent to make an anatomical gift by words such as “donor,” “organ donor,” or “body donor,” or by a symbol or statement of similar import, the gift may be used for transplantation, therapy, research, or education, and the gift passes in accordance with subdivision (g).
- (g) For purposes of subdivisions (b), (e), and (f) all of the following rules shall apply:
- (1) If the part is an eye, the gift passes to the appropriate eye bank.
  - (2) If the part is tissue, the gift passes to the appropriate tissue bank.
  - (3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.
- (h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under paragraph (2) of subdivision (a), passes to the organ procurement organization as custodian of the organ.
- (i) If an anatomical gift does not pass pursuant to subdivisions (a) to (h), inclusive, or the decedent’s body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.
- (j) A person shall not accept an anatomical gift if the person knows that the gift was not effectively made under Section 7150.20 or 7150.45 or if the person knows that the decedent made a refusal under Section 7150.30 that was not revoked. For purposes of this subdivision, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.
- (k) Except as otherwise provided in paragraph (2) of subdivision (a), nothing in this chapter affects the allocation of organs for transplantation or therapy.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

**§ 7150.55. Search for evidence of document of gift**

(a) All of the following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(1) A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual.

(2) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by paragraph (1) of subdivision (a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(c) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section, but may be subject to administrative sanctions.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

**§ 7150.60. Document of gift need not be delivered during donor's lifetime**

(a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 7150.50.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

**§ 7150.65. Search of records of Donate Life California Organ and Tissue Donor Registry or other donor registry; Examination**

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Donate Life California Organ and Tissue Donor Registry and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization shall be allowed reasonable access to information in the records of the Donate Life California Organ and Tissue Donor Registry to ascertain whether an individual who is at or near death is a donor. Personally identifiable information on a donor registry about a donor shall not be used or disclosed without the express consent of the donor or the person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift. A procurement organization shall not sell the information obtained from the donor registry. A procurement organization shall also comply with all state and federal laws with respect to the protection of a donor's or prospective donor's personally identifiable information.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under Section 7150.50 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this chapter, an examination under subdivision (c) or (d) may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subdivision (a), a procurement organization shall make a reasonable search for any person listed in Section 7150.40 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to subdivision (i) of Section 7150.50, and Section 7151.20, the rights of the person to which a part passes under Section 7150.50 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 7150.50, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) Except as provided in subdivision (e) of Section 7150.20, neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7150.70. Agreements between hospitals and procurement organizations for coordination**

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7150.75. Knowing sale or purchase of part for transplantation or therapy a felony**

(a) Except as otherwise provided in subdivision (b), a person that, for valuable consideration, knowingly purchases or sells a part for transplantation or therapy, if removal of a part from an individual is intended to occur after the individual's death, is guilty of a felony and is subject to a fine not exceeding fifty thousand dollars (\$50,000), or imprisonment not exceeding five years, or both the fine and imprisonment.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7150.80. No liability for acting in compliance with chapter or other state's anatomical gift law**

(a) A person that acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action or criminal prosecution.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in paragraphs (2) to (8), inclusive, of subdivision (a) of Section 7150.40 relating to the individual's relationship to the donor or prospective donor, unless the person knows that the representation is untrue.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7150.85. Validity of document of gift**

(a) A document of gift is valid if executed in accordance with any of the following:

(1) This chapter.

(2) The laws of the state or country where it was executed.

(3) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed, or that it was revoked.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7150.90. Donate Life California Organ and Tissue Donor Registry established; Duty of registrar**

(a) The California organ procurement organizations designated pursuant to Section 273 and following of Title 42 of the United States Code, are hereby authorized to establish a not-for-profit entity that shall be designated the California Organ and Tissue Donor Registrar, which shall establish and maintain the California Organ and Tissue Donor Registry, to be known as the Donate Life California Organ and Tissue Donor Regis-

try. The registry shall contain information regarding persons who have identified themselves as organ and tissue donors upon their death. The registrar shall be responsible for developing methods to increase the number of donors who enroll in the registry.

(b) The registrar shall make available to the federally designated organ procurement organizations (OPOs) in California and the state licensed tissue and eye banks information contained in the registry regarding potential donors on a 24-hour-a-day, seven-day-a-week basis. This information shall be used to expedite a match between identified organ and tissue donors and potential recipients.

(c) The registrar may receive voluntary contributions to support the registry and its activities.

(d) The registrar shall submit an annual written report to the State Public Health Officer and the Legislature that includes all of the following:

(1) The number of donors on the registry.

(2) The changes in the number of donors on the registry.

(3) The nonidentifiable information, as set forth in a memorandum of understanding or other specified language in Section 12811.3 of the Vehicle Code, of donors as may be determined by information provided on the donor registry forms pursuant to Sections 12811.3 and 13005 of the Vehicle Code.

(4) The nonidentifiable information, as set forth in a memorandum of understanding or other specified language in Section 12811.3 of the Vehicle Code, of donors as may be determined by information transmitted to the registry pursuant to Section 1798.90.1 of the Civil Code to identify an individual as a registered organ donor.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008. Amended Stats 2014 ch 569 § 2 (AB 2399), effective January 1, 2015; Stats 2021 ch 211 § 1 (AB 1374), effective January 1, 2022.

#### **§ 7151.15. Duty of county coroner**

(a) A county coroner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

(b) If a county coroner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the coroner and a post mortem examination or investigation is going to be performed, unless the coroner denies recovery in accordance with Section 7151.20, the coroner or designee shall conduct a post mortem examination or investigation of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

(c) A part shall not be removed from the body of a decedent under the jurisdiction of a coroner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the coroner shall not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subdivision does not preclude a coroner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner.

(d) Notwithstanding any other law, when an anatomical gift might be available or has been made by a person whose death is imminent due to the lawful withdrawal of medical treatment and if that person's body, post mortem, will be subject to the coroner's jurisdiction pursuant to Section 27491 of the Government Code, a procurement organization may notify a coroner of the anatomical gift, and a coroner shall accept the notification, whenever that notification will facilitate the coroner's ability to conduct a postmortem examination or investigation of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008. Amended Stats 2013 ch 341 § 2 (AB 1297), effective January 1, 2014.

#### **§ 7151.20. Removal of organs from donor who died under circumstances requiring inquest**

(a) On request from a qualified procurement organization, the county coroner may permit the removal of organs that constitute an anatomical gift from a decedent who died under circumstances requiring an inquest by the coroner.

(b) If no autopsy is required, the organs to be removed may be released to the qualified procurement organization.

(c) If an autopsy is required and the county coroner determines that the removal of the organs will not interfere with the subsequent course of an investigation or autopsy, the organs may be released for removal. The autopsy shall be performed following the removal of the organs.

(d) If a county coroner is considering withholding one or more organs of a potential donor for any reason, the county coroner, or his or her designee, upon request from a qualified organ procurement organization, shall be present during the procedure to remove the organs. The county coroner, or his or her designee, may



request a biopsy of those organs or deny removal of the organs if necessary. If the county coroner, or his or her designee, denies removal of the organs, the county coroner may do any of the following:

- (1) In the investigative report, explain in writing the reasons for the denial.
- (2) Provide the explanation to the qualified organ procurement organization.

(e) If the county coroner, or his or her designee, is present during the removal of the organs, the qualified procurement organization requesting the removal of the organ shall reimburse the county of the coroner, or his or her designee, for the actual costs incurred in performing the duty specified in subdivision (d), if reimbursement is requested by the county coroner. The payment shall be applied to the additional costs incurred by the county coroner's office in performing the duty specified in subdivision (d).

(f) The health care professional removing organs from a decedent who died under circumstances requiring an inquest shall file with the county coroner a report detailing the condition of the organs removed and their relationship, if any, to the cause of death.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7151.25. Application and construction of act**

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7151.30. Construction with Electronic Signatures in Global and National Commerce Act**

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001 et seq.), but does not modify, limit or supersede Section 101(a) of that act (15 U.S.C. Sec. 7001), or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7151.35. Potential recipient's mental or physical disability**

(a) No hospital, physician and surgeon, procurement organization, or other person shall determine the ultimate recipient of an anatomical gift based upon a potential recipient's physical or mental disability, except to the extent that the physical or mental disability has been found by a physician and surgeon, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.

(b) Subdivision (a) shall apply to each part of the organ transplant process. The organ transplant process includes, but is not limited to, all of the following:

- (1) The referral from a primary care provider to a specialist.
- (2) The referral from a specialist to a transplant center.
- (3) The evaluation of the patient for the transplant by the transplant center.
- (4) The consideration of the patient for placement on the official waiting list.

(c) A person with a physical or mental disability shall not be required to demonstrate postoperative independent living abilities in order to have access to a transplant if there is evidence that the person will have sufficient, compensatory support and assistance.

(d) The court shall accord priority on its calendar and handle expeditiously any action brought to seek any remedy authorized by law for purposes of enforcing compliance with this section.

(e) This section shall not be deemed to require referrals or recommendations for, or the performance of, medically inappropriate organ transplants.

(f) As used in this section "disabilities" has the same meaning as used in the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq., P.L. 101-336).

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

#### **§ 7151.36. Potential recipient's status as "qualified patient" or use of medical marijuana**

(a) A hospital, physician and surgeon, procurement organization, or other person shall not determine the ultimate recipient of an anatomical gift based solely upon a potential recipient's status as a qualified patient, as defined in Section 11362.7, or based solely upon a positive test for the use of medical marijuana by a potential recipient who is a qualified patient, as defined in Section 11362.7, except to the extent that the qualified patient's use of medical marijuana has been found by a physician and surgeon, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.



(b) Subdivision (a) shall apply to each part of the organ transplant process. The organ transplant process includes, but is not limited to, all of the following:

- (1) The referral from a primary care provider to a specialist.
- (2) The referral from a specialist to a transplant center.
- (3) The evaluation of the patient for the transplant by the transplant center.
- (4) The consideration of the patient for placement on the official waiting list.

(c) The court shall accord priority on its calendar and handle expeditiously any action brought to seek any remedy authorized by law for purposes of enforcing compliance with this section.

(d) This section shall not be deemed to require referrals or recommendations for, or the performance of, medically inappropriate organ transplants.

**HISTORY:** Added Stats 2015 ch 51 § 1 (AB 258), effective January 1, 2016.

### **§ 7151.40. Removal of parts**

(a) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician and surgeon.

(b) Following the final disposition of the remains of the donor, upon request of a person specified in Section 7100, the donee shall return the cremated remains of the donor at no cost to the person specified in Section 7100, unless the donor has previously designated otherwise in the document of gift. A person who knowingly returns the cremated remains of a person other than the donor to a person specified in Section 7100 shall be punished by imprisonment in the county jail for not more than one year.

(c) Residual anatomical materials and human remains donated to hospitals, organ procurement organizations, accredited medical schools, dental schools, colleges, or universities for educational, research, transplantation, or therapeutic use that are no longer useful or needed for those purposes, may be disposed of by those entities through cremation, in the same manner as medical waste, and without additional burial permit requirements if the donor has specifically waived subdivision (b) of Section 7151.40.

**HISTORY:** Added Stats 2007 ch 629 § 2 (AB 1689), effective January 1, 2008.

## **CHAPTER 3.7 DEATH**

### Article

1. Uniform Determination of Death Act.
2. Confirmation of Death.

**HISTORY:** Added Stats 1982 ch 810 § 2. Former Chapter 3.7, consisting of H & S C §§ 7180–7182, was added Stats 1974 ch 1524 § 1, effective September 27, 1974, and repealed Stats 1982 ch 810 § 1.

## **ARTICLE 1 UNIFORM DETERMINATION OF DEATH ACT**

### Section

7180. Determination of death; Irreversible cessation of circulatory and respiratory or brain functions

**HISTORY:** Added Stats 1982 ch 810 § 2.

### **§ 7180. Determination of death; Irreversible cessation of circulatory and respiratory or brain functions**

(a) An individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.

(b) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

(c) This article may be cited as the Uniform Determination of Death Act.

**HISTORY:** Added Stats 1982 ch 810 § 2.

## **ARTICLE 2 CONFIRMATION OF DEATH**

### Section

7181. Independent confirmation of brain function cessation  
 7182. Independent confirmation when part of donor used for direct transplantation  
 7183. Patient medical records  
 7184. Development of protocol for identifying potential donors  
 7184.5. Development of protocol for organ recovery; Procedures and requirements

**HISTORY:** Added Stats 1982 ch 810 § 2.

**§ 7181. Independent confirmation of brain function cessation**

When an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be independent confirmation by another physician.

**HISTORY:** Added Stats 1982 ch 810 § 2.

**§ 7182. Independent confirmation when part of donor used for direct transplantation**

When a part of the donor is used for direct transplantation pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150)) and the death of the donor is determined by determining that the individual has suffered an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be an independent confirmation of the death by another physician. Neither the physician making the determination of death under Section 7155.5 nor the physician making the independent confirmation shall participate in the procedures for removing or transplanting a part.

**HISTORY:** Added Stats 1982 ch 810 § 2.

**§ 7183. Patient medical records**

Complete patient medical records required of a health facility pursuant to regulations adopted by the department in accordance with Section 1275 shall be kept, maintained, and preserved with respect to the requirements of this chapter when an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem.

**HISTORY:** Added Stats 1982 ch 810 § 2.

**§ 7184. Development of protocol for identifying potential donors**

(a) Each general acute care hospital shall develop a protocol for identifying potential organ and tissue donors. The protocol shall require that any deceased individual's next of kin or other individual, as set forth in Section 7151, at or near the time of notification of death be asked whether the deceased was an organ donor or if the family is a donor family. If not, the family shall be informed of the option to donate organs and tissues pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7. With the approval of the designated next of kin or other individual, as set forth in Section 7151, the hospital shall then notify an organ and tissue procurement organization and cooperate in the procurement of the anatomical gift or gifts. The protocol shall encourage reasonable discretion and sensitivity to the family circumstances in all discussions regarding donations of tissue or organs. The protocol may take into account the deceased individual's religious beliefs or obvious unsuitability for organ and tissue donation. In the event an organ and tissue procurement organization does not exist in a region, the hospital shall contact an organ or a tissue procurement organization, as appropriate. Laws pertaining to notification of the coroner shall be complied with in all cases of reportable deaths.

(b) A general acute care hospital shall comply with subdivision (a) or (c) as a condition of participation in the Medi-Cal program contained in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) Notwithstanding subdivision (a), the protocol may alternately provide for the hospital to contact an organ and tissue procurement organization at the time a potential organ and tissue donor is identified, and for the trained personnel of the organ and tissue procurement organization to make the inquiries described in subdivision (a) of the deceased individual's next of kin or other individual as set forth in Section 7151.

**HISTORY:** Added Stats 1985 ch 779 § 1. Amended Stats 1988 ch 215 § 1, ch 1095 § 3.5; Stats 1992 ch 583 § 4 (SB 2012).

**§ 7184.5. Development of protocol for organ recovery; Procedures and requirements**

(a) In conjunction with entering into any agreement with any coroner or medical examiner for release and removal of organs from bodies within that official's custody and to further the purposes of Section 27491.45 of the Government Code, a procurement organization shall develop a protocol for organ recovery, as appropriate, that provides sufficient information on the medical and injury status of the deceased to permit release and removal of organs without undue prejudice to that official's investigation of, or inquiry into, the cause of death.

(b) The protocol described in subdivision (a) shall be subject to approval by the coroner or medical examiner before release or removal of organs and shall provide for the following:

- (1) Relevant information on the deceased to be given to the coroner or deputy coroner at the time of the initial request for permission to recover internal organs, including, but not limited to:

- (A) Information identifying the deceased.
  - (B) Date and time of pronouncement of brain death.
  - (C) Name of procurement organizations and coordinator.
  - (D) Organs requested.
  - (E) Organ donor number and hospital.
  - (F) Apparent cause and manner of death.
  - (G) A brief description of alleged circumstances surrounding the death to the extent they are known at the time.
  - (H) The law enforcement agency and the name of the investigating officer handling the case.
- (2) The following information, to be recorded by the organ procurement coordinator at the time of requesting permission for organ removal:
- (A) The name of the deputy coroner contacted.
  - (B) The name of the pathologist contacted by the deputy coroner.
  - (C) Whether permission for removal was obtained at the time, including the date and time if permission was obtained.
  - (D) The coroner's case number assigned by the deputy coroner.
  - (E) If the request for organ removal is refused, the reason given for the refusal.
- (3) A checklist to be completed prior to recovery of any organ by the procurement organization coordinator with the assistance, if necessary, of a physician attending the deceased, that includes, at a minimum, all of the following:
- (A) medical record review to insure documentation of external injuries, fractures, and internal injuries.
  - (B) In cases of suspected child abuse, whether:
    - (i) A child abuse consult was obtained.
    - (ii) A computerized axial tomographic scan or magnetic resonance image of the head was obtained.
    - (iii) A radiological skeletal survey was done.
    - (iv) The presence or absence of visible injury to the back of the scalp, ears, nose, and mouth, or retinal hemorrhage has been documented.
    - (v) A coagulation screen report was in the deceased's records.
  - (C) A photographic record of visible external injuries.
  - (D) Admitting blood sample, if available, and the date and time the sample was drawn.
- (4) A checklist of items to be provided to the coroner's office when the deceased's body is released after completion of organ recovery, including, but not limited to, all of the following:
- (A) A copy of the deceased's medical records.
  - (B) Film documenting abnormal findings, if used.
  - (C) The information recorded pursuant to the requirements of this subdivision.
  - (D) A sample of the deceased's blood, if taken on admission.
- (5) A form, completed by the physician and surgeon, technician, or team performing the organ recovery procedure and signed by the physician and surgeon, that describes in sufficient detail all of the following:
- (A) Tests used to determine the suitability for transplantation of all organs recovered.
  - (B) Documentation of injuries and other abnormalities, if any, noted or occurring during the organ recovery procedure.
  - (C) The date and time organ recovery was started.
  - (D) Any other information on the state of the deceased's body or organs that the physician and surgeon, technician, or team believes may assist the coroner in his or her investigation or inquiry.
- (c) The requirements of subdivision (a) shall not apply in any county that does not have a Level II trauma facility, as defined in Section 1798.160 and the regulations adopted pursuant thereto.
- (d) Notwithstanding any other provision of law, a health care provider may release the information described in this section to the procurement organization, the coroner, or the medical examiner.
- (e) For purposes of this section, "organ" or "organs" means internal whole organs, including, but not limited to, the heart, kidneys, the liver, and lungs, but does not include eyes, skin, or other similar tissue.

**HISTORY:** Added Stats 1996 ch 827 § 3 (AB 3145).

## CHAPTER 4 DISPOSAL OF UNCLAIMED DEAD

### Section

- 7200. Notice to decedent's relatives or to State Department
- 7201. Transmission and inspection of medical history
- 7202. Disposition of bodies retained for scientific or educational purposes; Period held
- 7203. Use for instruction and study

## Section

- 7204. Expense and records on receiving dead for educational purposes
- 7205. Illegal postmortems
- 7206. Obtaining material for scientific purposes when postmortem performed
- 7207. Interment at expense of person guilty of noncompliance
- 7208. Misdemeanor offense

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7200. Notice to decedent's relatives or to State Department**

Every head of a public institution, city or county undertaker, or state, county, or city officer having charge or control of remains to be interred at public expense shall use due diligence to notify the relatives of the decedent. In the absence of any known relative of the decedent desiring to direct the disposition of the remains in a manner other than provided in this chapter, and upon written request of the state department that these notices are required for a definite period specified in the request, that officer shall notify the state department immediately after the lapse of twenty-four hours after death, stating, whenever possible, the name, age, sex, and cause of death of the decedent.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 21 (SB 542).

### **§ 7201. Transmission and inspection of medical history**

The person in charge of a public institution in which the decedent was an inmate shall transmit upon request, to the State department or to any person designated by it, a brief medical history of the unclaimed dead for purpose of identification and permanent record, which records shall be open to inspection by any State or county official or prosecuting attorney.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7202. Disposition of bodies retained for scientific or educational purposes; Period held**

The unclaimed dead retained by the State department for scientific or educational purposes shall be embalmed and disposed of in accordance with the instructions of the State department. Such unclaimed dead shall be held for a period of thirty days by those to whom they may have been assigned for scientific or educational purposes, subject to claim and identification by any authenticated relative of the decedent for purpose of interment or other disposition in accordance with the directions of such relative.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7203. Use for instruction and study**

The bodies of the unclaimed dead retained by the State department shall be used solely for the purpose of instruction and study in the promotion of medical, chiropractic, and embalming education and science within the State.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7204. Expense and records on receiving dead for educational purposes**

All persons receiving unclaimed dead for educational purposes shall bear all reasonable expense incurred in the preservation and transportation of the dead and shall keep a permanent record of bodies received, giving the identification number, the name, age, sex, nationality, and race, if possible, together with the place of last residence of the decedent and the source and disposition, with dates, of the body.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7205. Illegal postmortems**

It is unlawful for any person, unless specifically authorized by law, to hold a post mortem examination of any unclaimed dead without the express permission of the State department.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7206. Obtaining material for scientific purposes when postmortem performed**

Any person authorized by law to perform post mortem examinations shall permit, with the consent of relatives, or in the absence of such relatives, with the consent of the State department, any representative of the anatomical or pathological departments of an incorporated medical, chiropractic, or osteopathic school or col-

lege to obtain at the time of the necropsy, such material in a recent state as may be needed for scientific purposes, if the material is not required for the legal purposes of the State.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7207. Interment at expense of person guilty of noncompliance**

Whenever, through the failure of any person to notify the State department, or promptly to deliver the body of a deceased indigent as required by the State department, such body becomes unfit for scientific or educational purposes, the State department shall so certify and the remains shall be interred at the expense of those guilty of such noncompliance.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7208. Misdemeanor offense**

Every person who unlawfully disposes, uses, or sells the body of an unclaimed dead person, or who violates any provision of this chapter is guilty of a misdemeanor.

**HISTORY:** Enacted Stats 1939 ch 60.

## **CHAPTER 5 EMBALMING AND TRANSPORTATION**

### Article

1. Embalming.
2. Transportation.

**HISTORY:** Enacted Stats 1939 ch 60.

## **ARTICLE 1 EMBALMING**

### Section

- |       |  |
|-------|--|
| 7300. | Coroner's permission, if death from unknown cause                      |
| 7301. | Permission, if death attributable to crime                             |
| 7302. | Report of contagious disease   |
| 7303. | Permission, if death from motor vehicle collision, etc.                |
| 7304. | Permission required of person having control of disposition or remains |

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7300. Coroner's permission, if death from unknown cause**

No person shall embalm the body of any person who has died from an unknown cause, except with the permission of the coroner.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 126 § 1; Stats 1951 ch 560 § 1.

### **§ 7301. Permission, if death attributable to crime**

No embalmer shall embalm a dead human body when he has information reasonably indicating crime in connection with the death until permission of the coroner has been obtained.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1977 ch 1257 § 116, effective October 3, 1977.

### **§ 7302. Report of contagious disease**

Every funeral director and embalmer shall immediately report to the local health officer every contagious case on which the funeral director or embalmer may be called.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7303. Permission, if death from motor vehicle collision, etc.**

No embalmer shall embalm a dead human body when he has information reasonably indicating the death has occurred while the deceased was driving or riding in a motor vehicle, or as a result of the deceased being struck by a motor vehicle, until permission of the coroner, his appointed deputy coroner, or a judge in the county, if there is no coroner, has been obtained.

**HISTORY:** Added Stats 1970 ch 1355 § 2.

### **§ 7304. Permission required of person having control of disposition or remains**

No embalmer shall embalm a dead body without obtaining written or oral permission of a person who has the right to control the disposition of the remains pursuant to Section 7100, except that prior authorization is



not required if embalming is necessary in order to comply with applicable laws or regulations, or is necessary to avoid irreparable deterioration of the dead body, in which case, a good faith effort shall be made to obtain permission.

**HISTORY:** Added Stats 1978 ch 530 § 1.

## ARTICLE 2 TRANSPORTATION

### Section

7355. Required preparation of body by embalmer and placement in casket

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7355. Required preparation of body by embalmer and placement in casket

(a) Except as provided in subdivision (b), the bodies of persons who have died from any cause shall not be received for transportation by a common carrier unless the body has been embalmed and prepared by a licensed embalmer and placed in a sound casket and enclosed in a transportation case.

(b) A dead body, which cannot be embalmed or is in a state of decomposition, shall be received for transportation by a common carrier if the body is placed in an airtight metal casket enclosed in a strong transportation case or in a sound casket enclosed in an airtight metal or metal-lined transportation case.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 126 § 6; Stats 1941 ch 181 § 3; Stats 1953 ch 1037 § 2; Stats 1973 ch 574 § 1.

## PART 2 DISINTERMENT AND REMOVAL

### Chapter

1. General Provisions
3. Removal of All Remains: Cities of 1500–100,000
4. Removal of All Remains: Cities and Counties Over 100,000

**HISTORY:** Enacted Stats 1939 ch 60.

## CHAPTER 1 GENERAL PROVISIONS

### Article

1. Permits.
2. Consent to Removal.

**HISTORY:** Enacted Stats 1939 ch 60.

## ARTICLE 1 PERMITS

### Section

7500. Required order for removal, and maintenance of records
7501. Permit for removal
7502. Removal of all remains interred in all or part of cemetery

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7500. Required order for removal, and maintenance of records

No remains of any deceased person shall be removed from any cemetery, except upon written order of the health department having jurisdiction, or of the superior court of the county in which such cemetery is situated. A duplicate copy of the order shall be maintained as a part of the records of the cemetery. Any person who removes any remains from any cemetery shall keep and maintain a true and correct record showing:

- (a) The date such remains were removed.
- (b) The name and age of the person removed, when these particulars can be conveniently obtained and the place to which the remains were removed.
- (c) The cemetery and the plot therein in which such remains were buried.

If the remains are disposed of other than by interment, a record shall be made and kept of such disposition. The person making the removal shall deliver to the cemetery authority operating the cemetery from which the remains were removed, a true, full and complete copy of such record.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7501. Permit for removal

A cemetery authority shall not remove or permit the removal of any interred remains, unless a permit for the removal has been issued by the local registrar of the district in which the premises are located, and deliv-

ered to the cemetery authority. Any person entitled by law to remove any remains may apply to the local registrar for a permit to remove them. The local registrar shall issue a permit, which in all cases shall specify the name of a cemetery where the remains shall be interred, and shall retain a copy, except that if cremated remains are to be buried at sea as provided in Section 7117 of this code, the permit shall so specify and indicate the county where the fact of burial at sea shall be reported.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1941 ch 181 § 7; Stats 1955 ch 94 § 9; Stats 1965 ch 1300 § 3, ch 1421 § 9.

### **§ 7502. Removal of all remains interred in all or part of cemetery**

In the disinterment, transportation and removal of human remains under Chapter 4 of this part a cemetery authority need not obtain a separate permit for the disinterment, transportation or removal of the remains of each person, but disinterment, transportation and removal of human remains shall be made subject to reasonable rules and regulations relative to the manner of disinterring, transporting or removing such remains as may be adopted by the board of health or health officer of the city or city and county in which the cemetery lands are situated.

**HISTORY:** Enacted Stats 1939 ch 60.

## **ARTICLE 2 CONSENT TO REMOVAL**

### **Section**

- 7525. Consent of decedent's spouse or next of kin
- 7526. Permission by court
- 7527. Notice of application
- 7528. Exclusions from article

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7525. Consent of decedent's spouse or next of kin**

The remains of a deceased person may be removed from a plot in a cemetery with the consent of the cemetery authority and the written consent of one of the following in the order named:

- (a) The surviving spouse.
- (b) The surviving children.
- (c) The surviving parents.
- (d) The surviving brothers or sisters.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7526. Permission by court**

If the required consent can not be obtained, permission by the superior court of the county where the cemetery is situated is sufficient.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7527. Notice of application**

Notice of application to the court for such permission shall be given, at least ten days prior thereto, personally, or at least fifteen days prior thereto if by mail, to the cemetery authority and to the persons not consenting, and to every other person or association on whom service of notice may be required by the court.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7528. Exclusions from article**

This article does not apply to or prohibit the removal of any remains from one plot to another in the same cemetery or the removal of remains by a cemetery authority from a plot for which the purchase price is past due and unpaid, to some other suitable place; nor does it apply to the disinterment of remains upon order of court or coroner.

**HISTORY:** Enacted Stats 1939 ch 60.

## **CHAPTER 3 REMOVAL OF ALL REMAINS: CITIES OF 1500–100,000**

### **Section**

- 7600. Authorized ordinance and rules

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7600. Authorized ordinance and rules**

The governing body of any city having a population of more than fifteen hundred and not exceeding one hundred thousand, may, by ordinance, and under such rules and regulations as it may adopt, provide for the disinterring and removal of all human remains from cemeteries in which no interments have been made for a period of two years, which are within the city, or owned and controlled by the city and located without its boundaries.

**HISTORY:** Enacted Stats 1939 ch 60.

**CHAPTER 4 REMOVAL OF ALL REMAINS: CITIES AND CITIES AND COUNTIES OVER 100,000**

## Article

1. Power of Municipality.
2. Declaration of Intention by Cemetery Authority.
3. Notice of Intention.
4. Special Notice to Relative or Friend.
5. Removals by Relatives or Friends.
6. Removal by Cemetery Authority.
7. Disposal of Lands.
8. Use of Funds.
9. New Land, Mausoleum or Columbarium.
10. Taxation.
11. Religious Observances.
12. Removal by Counties.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 1 POWER OF MUNICIPALITY**

## Section

7700. Order for removal, after ordinance  
7701. Rules and regulations

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7700. Order for removal, after ordinance**

The governing body of any city or city and county, having a population of more than one hundred thousand persons, may order the disinterment and removal of all human remains interred in all or any part of any cemetery of more than five acres in extent situated within its limits, where the right of interment in the cemetery has been prohibited by law for a period of fifteen years or more, whenever the governing body, by ordinance, declares that the further maintenance of all or any part of the cemetery as a burial place for the human dead threatens or endangers the health, safety, comfort or welfare of the public and demands the disinterment and removal beyond the limits of the city, or city and county, of the human remains interred therein.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7701. Rules and regulations**

The governing body of such city or city and county may in any ordinance ordering or directing the disinterment and removal of such remains prescribe reasonable rules and regulations governing the manner of making disinterments and removals and providing for reinterment in cemeteries outside the city or city and county limits.

The ordinance shall prescribe a reasonable time of not less than two years in which the removal of remains may be made by the cemetery authority, or by the owners or holders of interment spaces, or by the relatives or friends of those whose remains are interred in the cemetery, and may also provide that if the remains are not removed within the period fixed, the city or city and county will itself proceed to remove the remains and reinter them in another cemetery or cemeteries outside the city or city and county limits.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 2 DECLARATION OF INTENTION BY CEMETERY AUTHORITY**

## Section

7725. Declaration by ordinance or resolution  
7726. Contents of declaration

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7725. Declaration by ordinance or resolution**

The cemetery authority of any cemetery from which human remains are ordered removed by an ordinance adopted in accordance with this chapter, may declare its intention and purpose to disinter and remove the remains in accordance with the ordinance, and to reinter the remains in another cemetery or cemeteries outside the limits of the city or city and county, or to deposit the removed remains in a memorial mausoleum or columbarium.

In the case of a cemetery corporation or association the procedure for such declaration shall be by resolution of the governing body of the corporation or association, ratified and approved by a majority vote of the lot owners or holders at any regular meeting of the corporation or association, or at a meeting specially called for the purpose.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7726. Contents of declaration**

Any resolution or declaration of intention to disinter and remove human remains pursuant to this chapter adopted or declared by any cemetery authority shall specify and declare that at any time after the expiration of ten months from and after the first publication of the notice of the resolution or declaration, the human remains then remaining in all or any part of the cemetery will be removed by the cemetery authority.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 3 NOTICE OF INTENTION**

## Section

7735.	Publication
7736.	Title and contents
7737.	Posting in cemetery
7738.	Mailing to plot owners, etc.
7739.	Mailing to heirs

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7735. Publication**

Notice of a declaration of intention to remove the human remains from all or any part of any cemetery shall be given by publication in a newspaper of general circulation published in the city, or city and county, in which the cemetery or the portion from which removals are to be made is situated. Publication shall be at least once a week for two successive months.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7736. Title and contents**

The notice shall be entitled: "Notice of Declaration of Intention to Remove Human Remains from \_\_\_\_ (insert name of cemetery) in accordance with the provisions of Ordinance No. \_\_\_\_ (insert number) of the \_\_\_\_ (insert name of city, or city and county) adopted \_\_\_\_ (insert date)" and shall specify a date not less than ten months after the first publication when the cemetery authority causing the notice to be published will proceed to remove the remains then remaining in such cemetery or the portion from which removals are to be made.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7737. Posting in cemetery**

Copies of the notice shall within ten days after the first publication be posted in at least three conspicuous places in the cemetery or the portion from which removals are to be made.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7738. Mailing to plot owners, etc.**

A copy of the notice shall be mailed to every person who owns, holds, or has the right of interment in, any plot in the cemetery or part affected, whose name appears upon the records of the cemetery. The notice shall be addressed to the last known post-office address of the plot owner as it appears from the records of the cemetery, and if his address does not appear or is not known, then to him at the city, or city and county, in which the cemetery land is situated.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7739. Mailing to heirs**

The notice shall also be mailed to each known living heir at law of any person whose remains are interred in the cemetery, if his address is known.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 4 SPECIAL NOTICE TO RELATIVE OR FRIEND**

## Section

- 7750. Notice to cemetery authority by friend or relative
- 7751. Contents of notice to authority
- 7752. Delivering or mailing to cemetery authority
- 7753. Notice by cemetery authority
- 7754. Notice before disinterment

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7750. Notice to cemetery authority by friend or relative**

At any time before the date fixed for the removal of remains by the cemetery authority, any relative or friend of any person whose remains are interred in the cemetery from which removals are to be made may give the cemetery authority written notice that he desires to be present when the remains are disinterred or are reinterred.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7751. Contents of notice to authority**

The notice to the cemetery authority shall specify:

- (a) The name of the person whose remains are to be disinterred.
- (b) As accurately as possible, the plot where the remains are interred.
- (c) The date of interment.
- (d) An address at which the required notices may be given by the cemetery authority.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7752. Delivering or mailing to cemetery authority**

The notice may be delivered, or forwarded by registered mail, to the office or principal place of business of the cemetery authority proposing to make removals.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7753. Notice by cemetery authority**

After receipt of such notice before the date fixed for the removal of the remains by the cemetery authority, it shall give written notice to the person requesting it of the time when the remains shall be disinterred and of the time when and the place where they will be reinterred. This notice shall be given by delivery, or by mail, to the person requesting it at least ten days prior to the date specified for the disinterment of the remains.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7754. Notice before disinterment**

Whenever a request of notice is given by a relative or friend, the cemetery authority shall not disinter the remains referred to until the notice of the time of disinterment is given the relative or friend, as provided in this article.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 5 REMOVALS BY RELATIVES OR FRIENDS**

## Section

- 7800. Right to remove remains
- 7801. Affidavit for removal
- 7802. Removal by purchaser or owner
- 7803. Removal by heir(s)
- 7804. Removal of plot improvements by relative or friend.
- 7805. Removal of plot improvements by cemetery authority

**HISTORY:** Enacted Stats 1939 ch 60.



**§ 7800. Right to remove remains**

At any time prior to the removal by a cemetery authority of the remains of any person, any relative or friend of the decedent may voluntarily remove and dispose of the remains.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7801. Affidavit for removal**

The person desiring to cause the removal shall, prior to removal, deliver to the cemetery authority an affidavit stating the name of the decedent whose remains it is desired to remove and, so far as is known to affiant, the date of burial and the names and places of residence of the heirs at law of the decedent. If the person desiring to cause the removal is not an heir at law of the person whose remains he desires to remove, the removal shall not be made by him until he has delivered to the cemetery authority the written consent of a majority of the known heirs at law of the decedent who are residents of this State. The statements in the affidavit are sufficient evidence of the number, names, and residences of the heirs at law for all of the purposes of this article, and the written consent of the majority of the heirs at law named in the affidavit is sufficient authority for the cemetery authority to permit the removal of the remains.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7802. Removal by purchaser or owner**

Removal of all remains in a plot without the filing of an affidavit of consent may be caused by any of the following:

- (a) The purchaser or owner of the plot.
- (b) The purchaser or owner of the right of interment in the plot.
- (c) Any one of joint purchasers or owners of the plot or of the right of interment in the plot.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7803. Removal by heir(s)**

If the right, title or interest of any grantee of any plot or of the right of interment therein has passed by succession to the heir or heirs at law of the grantee without distribution by order of court, the heir or heirs at law may remove the remains of persons interred in the plot. The affidavit of any heir at law setting out the facts of heirship shall be accepted by the cemetery authority as sufficient evidence of the fact of the transfer.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7804. Removal of plot improvements by relative or friend.**

Whenever remains are removed by a relative or friend of a decedent, under the provisions of this chapter, the person causing the removal is entitled to remove any vault, monument, headstone, coping or other improvement appurtenant to the interment space from which the remains have been removed. The affidavit or written consent given under the provisions of this chapter are sufficient authority for the cemetery authority to permit the removal of any such appurtenance.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7805. Removal of plot improvements by cemetery authority**

If such appurtenances remain on the plot for more than ninety days after the removal of the last human remains, they may be removed and disposed of by the cemetery authority, and thereafter no person claiming any interest in the plot, or any such appurtenance shall maintain in any court any action in relation to any such appurtenance.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 6 REMOVAL BY CEMETERY AUTHORITY****Section**

- 7850. Removal and reinterment after notice
- 7851. Reinterment in adjoining county
- 7852. Manner of reinterment

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7850. Removal and reinterment after notice**

After the completion of notice, and after the expiration of the period of ten months specified in the notice,

any cemetery authority may cause the removal of all human remains interred in the cemetery or portion from which the remains have been ordered removed, and may reinter such remains in other cemeteries in this State where interments are permitted, without further notice to any person claiming any interest in the cemetery, or portion affected, or in the remains interred therein.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7851. Reinterment in adjoining county**

Whenever any remains are removed from any cemetery or portion of a cemetery pursuant to this chapter by a cemetery authority, they shall be transported to and reinterred in a cemetery in an adjoining county where interments by the cemetery authority are permitted.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7852. Manner of reinterment**

The remains of each person reinterred shall be placed in a separate and suitable receptacle and decently and respectfully interred under rules and regulations adopted by the cemetery authority making the removal.

**HISTORY:** Enacted Stats 1939 ch 60.

## **ARTICLE 7 DISPOSAL OF LANDS**

### Section

- 7900. Authority to sell and encumber
- 7901. Manner of making sales; Confirmation by court
- 7902. Petition for confirmation; Notice of hearing
- 7903. Confirmation of sale agreed on prior to adoption of ordinance
- 7904. Recording declaration of removal of human remains
- 7905. Reservation for mausoleum or columbarium
- 7906. Proceeding for removal of dedication

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7900. Authority to sell and encumber**

Whenever human remains have been ordered removed under this chapter, and the cemetery authority has made and published notice of intention to remove such remains, the portions of the cemetery in which no interments have been made, and those portions from which all human remains have been removed, may be sold, mortgaged, or otherwise encumbered as security for any loan or loans made to the cemetery authority.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7901. Manner of making sales; Confirmation by court**

No order of any court shall be required prior to the making of any such sale, mortgage, or other encumbrance of such lands; but any sale of such cemetery lands made by any cemetery corporation or association controlled by a governing body shall be fairly conducted and the price paid shall be fair and reasonable and all such sales shall be confirmed, as to the fairness and reasonableness of the price paid, by the superior court of the county in which the lands are situated.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 7902. Petition for confirmation; Notice of hearing**

Petitions for confirmation of sales shall be made to the superior court of the county or city and county in which the lands are situated, and the clerk of the court shall fix a day for and give notice of hearing in accordance with the provisions of Section 1230 of the Probate Code.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1988 ch 113 § 11, effective May 25, 1988, operative July 1, 1988.

### **§ 7903. Confirmation of sale agreed on prior to adoption of ordinance**

If prior to the adoption of an ordinance pursuant to this chapter any cemetery authority has in good faith entered into any agreement to sell or has granted any option to buy all or any portion of its cemetery lands for a price reasonable at the time the agreement to sell was made, or the option granted, the superior court shall confirm the sale at the price stipulated in the agreement to sell or the option to buy.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7904. Recording declaration of removal of human remains**

After the removal of all human remains interred in any part or the whole of the cemetery lands, the cemetery authority may file for record in the office of the county recorder of the county or city and county in which the lands are situated a written declaration reciting that all human remains have been removed from the lands described in the declaration.

The declaration shall be acknowledged in the manner of the acknowledgment of deeds to real property by the president and secretary, or other corresponding officers of the cemetery authority, or by the person owning or controlling the cemetery lands, and thereafter any deed, mortgage, or other conveyance of any part of such lands is conclusive evidence in favor of any grantee or mortgagee named in it, and his successor or assigns, of the fact of the complete removal of all human remains therefrom.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7905. Reservation for mausoleum or columbarium**

With the approval of the governing body of the city or city and county in which the cemetery lands are situated, sufficient lands may be reserved from any cemetery lands from which the human remains have been removed to erect a mausoleum or columbarium for the reinterment of disinterred remains, to provide sufficient grounds around it, and to preserve such historical vaults or monuments as the cemetery authority may determine to be proper or necessary.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7906. Proceeding for removal of dedication**

After all remains have been removed from a cemetery in accordance with Chapters 3 and 4, Part 2, Division VII of this code, the dedication may be removed from all or any part of such cemetery lands by an order and decree of the superior court of the county in which the property is situated, in a proceeding brought for that purpose and upon notice of hearing and proof satisfactory to the court:

- (a) That all bodies have been removed, or that no interments were made; and
- (b) That the property is no longer used or required for interment purposes.

**HISTORY:** Added Stats 1939 ch 1032 § 1.

**ARTICLE 8 USE OF FUNDS**

## Section

- 7925. Exemption and use of proceeds from sales of unused lands
- 7926. Use of funds in treasury to defray expense of removal
- 7927. Endowment care fund for reinterment cemetery
- 7928. Reimbursement of persons making voluntary removals
- 7929. Use of fund balance
- 7930. Fund investment, use, etc., to provide care or improvement
- 7931. Provision for care by transfer of funds to another corporation
- 7932. Court order for fund transfer
- 7933. Proceedings for fund transfer order

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7925. Exemption and use of proceeds from sales of unused lands**

Money payable or to become payable as the purchase price or on account of the purchase price of unused lands, or lands from which all remains have been removed is not subject to enforcement of a money judgment, but shall be used exclusively for any or all of the following purposes:

- (a) Acquisition of lands and improvements for cemetery purposes.
- (b) Disinterment, removal, and reinterment of bodies, pursuant to this chapter.
- (c) Endowment care of graves, markers, and cemetery embellishments.
- (d) The payment of expenses incidental to the disinterment, removal, and reinterment.
- (e) Any other purpose consistent with the objects for which the cemetery authority owning the cemetery is created or organized.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 1071; Stats 1951 ch 176 § 8; Stats 1982 ch 497 § 122, operative July 1, 1983.

**§ 7926. Use of funds in treasury to defray expense of removal**

Whenever any cemetery corporation or association has declared for removal and has published notice of its intention to make removals under this chapter, it may employ any money in its treasury to defray the expense of removal, including:

- (a) The expense of purchasing or otherwise providing a suitable place for the interment of remains in any other cemetery.
- (b) The expenses of disinterment, transportation and reinterment.
- (c) The expenses of removal and disposal of vaults, monuments, headstones, copings, or other improvements.
- (d) All necessary expenses incident to the sale or mortgaging of any land from which removals have been made.
- (e) All other expenses necessarily incurred in carrying out the removal, and reinterment, or disposing of remains so removed.
- (f) All expenses incident to any of the above purposes.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 7927. Endowment care fund for reinterment cemetery**

From the money remaining in the treasury of the cemetery corporation or association after completing the removal and reinterment of the remains from its cemetery lands and the payment of all incidental expenses, the cemetery corporation or association shall set aside an adequate endowment care fund for the maintenance and care of the cemetery in which the remains have been interred.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 9.

#### **§ 7928. Reimbursement of persons making voluntary removals**

After making provisions for an endowment care fund to provide for maintenance and care, the governing body of the cemetery corporation or association may use such portion of the funds then remaining as it may determine to be just and fair in reimbursing those who voluntarily and at their own cost and expense removed the remains of friends or relatives from the cemetery lands from which the remains were ordered removed. Such reimbursement shall not be greater in amount than the average cost to the cemetery corporation or association for removals directly made by it.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 10.

#### **§ 7929. Use of fund balance**

Any balance remaining in the fund may be used for such other purposes as the cemetery corporation or association may lawfully declare.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 7930. Fund investment, use, etc., to provide care or improvement**

Whenever any cemetery corporation or association having a governing body has caused the removal of remains from all or any portion of its cemetery and has funds in its treasury which are not required for other purposes, it may set aside, invest, use, and apply from such unexpended funds such sum as, in the judgment of the governing body, it is necessary or expedient to provide for the perpetual or other care or improvement of any cemetery in which the disinterred remains may be reinterred.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 7931. Provision for care by transfer of funds to another corporation**

In lieu of itself investing, using or applying the funds for care or improvement, the cemetery corporation or association may transfer the funds to any other corporation under such conditions and regulations as in the judgment of the governing body will insure their application to the purposes of care or improvement.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 7932. Court order for fund transfer**

Before any such transfer of funds is made, the cemetery corporation or association shall obtain an order authorizing the transfer from the superior court of the county where the cemetery or portion from which the remains were removed is situated.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 7933. Proceedings for fund transfer order**

The order shall be obtained upon petition of the cemetery corporation or association, after such notice by publication as the court may direct, and any member or former plot owner may support or oppose the granting of the

order by affidavit or otherwise. Before making the order, proof shall be made to the satisfaction of the court that notice has been given and that it is for the best interests of the cemetery corporation or association that the transfer be made.

**HISTORY:** Enacted Stats 1939 ch 60.

## ARTICLE 9 NEW LAND, MAUSOLEUM OR COLUMBARIUM

### Section

- 7950. Survey and subdivision; Crypts or niches
- 7951. Sale of plots, crypts and niches
- 7952. Releases as payment for new plots; Retransfer as release
- 7953. Permanent markers
- 7954. Map, plat, or plan
- 7955. Inspection of map or plan

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7950. Survey and subdivision; Crypts or niches

Whenever any cemetery authority owning or controlling cemetery lands from which remains are to be removed has acquired the possession or use of any cemetery for the purpose of providing a place for the reinterment of human remains removed under this chapter, new lands may be surveyed and subdivided into plots, avenues, and walks for cemetery purposes; and any mausoleum and columbarium may be divided into crypts or niches.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7951. Sale of plots, crypts and niches

Plots, crypts, or niches may be sold to persons desiring to make reinterments.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7952. Releases as payment for new plots; Retransfer as release

The governing body of any cemetery corporation or association may receive and accept as part or full or partial releases of rights in or to the whole or any part of the assets of the corporation or association other than the plot conveyed to the purchaser. Any retransfer to the cemetery corporation or association of any plot in the cemetery from which the removal of the human remains is to be made operates as such release.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7953. Permanent markers

After the removal and reinterment of remains disinterred from any cemetery the cemetery authority shall cause to be erected upon or imbedded in any plot in which any remains are reinterred a suitable permanent marker identifying the remains.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7954. Map, plat, or plan

The cemetery authority shall prepare a complete map or plat describing and showing the location and subdivision into plots of the cemetery lands where remains are reinterred, or a plan of any mausoleum or columbarium in which such remains are interred; and there shall be attached to each plan a description of the name, where known, of each person whose remains are reinterred, and the plot in the cemetery, or the niche or compartment in the mausoleum or columbarium where such remains are reinterred.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 7955. Inspection of map or plan

The map or plan shall be kept on file in the office of the cemetery authority and shall at all times be open to inspection by the relatives or friends of deceased persons whose remains are reinterred therein.

**HISTORY:** Enacted Stats 1939 ch 60.

## ARTICLE 10 TAXATION

### Section

- 7975. Prohibited reinterment charges and taxes

**HISTORY:** Enacted Stats 1939 ch 60.



**§ 7975. Prohibited reinterment charges and taxes**

When any law or ordinance requires that the remains interred in any cemetery be removed and reinterred elsewhere, no county, town or political subdivision in which the reinterment of disinterred remains takes place, shall charge for any permit or levy a tax of any nature for the reinterment.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 11 RELIGIOUS OBSERVANCES**

Section

7980. Required compliance with rules of religious denomination

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 7980. Required compliance with rules of religious denomination**

The heirs, relatives or friends of any decedent whose remains have been interred in any cemetery owned, governed or controlled by any religious corporation or by any church or religious society of any denomination or by any corporation sole administering temporalities of any religious denomination, society or church, or owned, governed or controlled by any person or persons as trustee or trustees for any religious denomination, society or church shall not disinter, remove, reinter or dispose of any such remains except in accordance with the rules, regulations and discipline of such religious denomination, society or church.

The officers, representatives or agents of the church or religious society shall be the sole judge of the requirements of the rules, regulations and discipline of such religious denomination, society or church.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 12 REMOVAL BY COUNTIES**

Section

8000. Authorized order for disinterment and removal

8001. Resolution or declaration for abandonment, and notice thereon

8002. Voluntary removal and reinterment

8003. Power of county after notice

8004. Transportation and reinterment requirements; Marker and record

8005. Use, management and control of property

**HISTORY:** Added Stats 1947 ch 586 § 1.

**§ 8000. Authorized order for disinterment and removal**

If it appears to the board of supervisors of any county owning a county cemetery that:

- (a) It is necessary that the property be used for other purposes,
- (b) The cemetery is located on a portion of the site of an existing county institution maintained for the relief of the indigent, sick and afflicted, and
- (c) Adequate facilities are otherwise provided for by the county for the burial of the indigent dead; the board may, by following the procedure contained in this article, order the disinterment and removal of all human remains interred in such cemetery.

**HISTORY:** Added Stats 1947 ch 586 § 1. Amended Stats 1961 ch 303 § 1.

**§ 8001. Resolution or declaration for abandonment, and notice thereon**

Any resolution or declaration for abandonment adopted and made under the provisions of this article shall specify and declare that any time after the expiration of 60 days after the first publication of the notice of declaration of intended abandonment and removal, the human remains then remaining in the cemetery will be removed by the county owning the cemetery. Notice of the declaration of intended abandonment of the cemetery and proposed removal of the human remains interred therein shall be given to all persons interested therein by publication in the newspaper of general circulation published in the county determined by the board of supervisors most likely to give notice to the parties concerned. Publication shall be made once a week for four consecutive times. The notice shall be entitled "Notice of Declaration of Abandonment of Lands for Cemetery Purposes and of Intention to Remove Human Bodies Interred Therein," and shall specify a date not less than 60 days after the first publication of the notice when the county controlling the cemetery lands and causing the notice to be published will proceed to remove the human remains then remaining in such cemetery. Notice shall also be mailed to any known living heir-at-law of any person whose remains are interred in the cemetery when the address of the heir is known.

**HISTORY:** Added Stats 1947 ch 586 § 1.

**§ 8002. Voluntary removal and reinterment**

At any time before the date fixed for the removal of the remains by the county owning or controlling such cemetery land, any relative or friend of any person whose remains are interred in the cemetery may voluntarily remove the remains and reinter the same as he may desire.

**HISTORY:** Added Stats 1947 ch 586 § 1.

**§ 8003. Power of county after notice**

After the publication and mailing of the notice mentioned in Section 8001 of this code and after the expiration of the 60 days specified in the notice, the county shall have the power to cause the removal of all human remains interred in the cemetery about to be abandoned and to cause the reinterment in other cemeteries of the county in which burials are permitted, without further notice to any persons claiming an interest in the remains therein interred.

**HISTORY:** Added Stats 1947 ch 586 § 1.

**§ 8004. Transportation and reinterment requirements; Marker and record**

Whenever the remains of any person shall be removed from any abandoned cemetery by the county owning such abandoned cemetery, such remains shall be transported and reinterred in a separate and suitable receptacle. After the removal and reinterment of human bodies disinterred from an abandoned cemetery, the county owning or controlling the abandoned cemetery lands shall cause to be erected upon or imbedded in any lot or plot wherein such body is reinterred a suitable permanent marker identifying the remains with as much particularity as is available to such county and shall prepare a complete record of the name of each person, where known, and the lot or plot where the body is reinterred and such record shall be kept in the office of the board of supervisors of the county making such removals and reinterments and shall at all times be open to the relatives and friends of those so reinterred.

**HISTORY:** Added Stats 1947 ch 586 § 1.

**§ 8005. Use, management and control of property**

After the removal of all human remains the property may be used, managed and controlled by the board of supervisors as other county property.

**HISTORY:** Added Stats 1947 ch 586 § 1.

**DIVISION 8 CEMETERIES**

## Part

1. General Provisions
2. Public Cemeteries
3. Private Cemeteries
4. Public Cemetery Districts
5. Mausoleums and Columbariums

**HISTORY:** Enacted Stats 1939 ch 60.

**PART 1 GENERAL PROVISIONS**

## Chapter

1. Definitions
2. Vandalism
- 3.5. Requirements for Burials
4. Local Regulation of Cemeteries
- 4.5. Maintenance of Cemetery Grounds
5. Change in Use

**HISTORY:** Enacted Stats 1939 ch 60.

**CHAPTER 1 DEFINITIONS**

## Section

8100. Number of burials

**HISTORY:** Enacted Stats 1939 ch 60. The heading of Chapter 1, which formerly read "Cemetery Defined," amended to read as above by Stats 2001 ch 436 § 1.

**§ 8100. Number of burials**

The definitions set forth in Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 shall be applicable to this division.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 23 (SB 542).

## CHAPTER 2 VANDALISM

### Section

- 8102. Civil liability
- 8103. Exclusions

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8102. Civil liability

Any person violating any provision of this chapter is liable, in a civil action by and in the name of the cemetery authority, to pay all damages occasioned by his unlawful acts. The sum recovered shall be applied in payment for the repair and restoration of the property injured or destroyed.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8103. Exclusions

The provisions of this chapter do not apply to the removal or unavoidable breakage or injury, by a cemetery authority, of any thing placed in or upon any portion of its cemetery in violation of any of the rules or regulations of the cemetery authority, nor to the removal of anything placed in the cemetery by or with the consent of the cemetery authority which has become in a wrecked, unsightly, or dilapidated condition.

**HISTORY:** Enacted Stats 1939 ch 60.

## CHAPTER 3.5 REQUIREMENTS FOR BURIALS

### Section

- 8113. Application of chapter
- 8113.1. Required depth of burial
- 8113.2. [Section repealed 2002.]
- 8113.3. Exceptions to application of chapter
- 8113.4. Liability for cost of reburial of remains improperly buried
- 8113.5. Prohibition of multiple bodies in single plot; Penalties for violation
- 8113.6. Disciplinary action by Cemetery and Funeral Bureau
- 8113.7. Statute of limitations

**HISTORY:** Added Stats 1992 ch 828 § 1.

### § 8113. Application of chapter

(a) This chapter shall apply to all cemeteries, including, but not limited to, public cemeteries, private cemeteries, and cemeteries operated by religious organizations, or fraternal or beneficial associations or societies.

(b) This chapter shall supersede any conflicting rules or regulations established by any entity that manages or operates a cemetery in this state, including, but not limited to, a city, a county, a city and county, a public cemetery district, a cemetery authority, a private corporation, or any organization, association, or society managing or operating a cemetery.

**HISTORY:** Added Stats 1992 ch 828 § 1 (AB 1981).

### § 8113.1. Required depth of burial

(a) Except as provided in subdivisions (b) and (c), there shall be no less than 18 inches of dirt or turf on top of all vaults or caskets as measured at the time of burial.

(b) Cremated remains placed in an urn or urn vault and covered with at least three-quarters of an inch of concrete, brass, granite, marble, or metal plate, affixed to the urn or urn vault shall be exempt from the requirement of subdivision (a).

(c) In the case of consensual double burials, the casket or vault that is on top shall be covered with at least 12 inches of dirt or turf as measured at the time of burial.

(d) In a case of extreme hardship, upon request of the next of kin or other person responsible for making the burial arrangements for the deceased, a burial of less than 18, but not less than 12 inches may be provided.

**HISTORY:** Added Stats 1992 ch 828 § 1 (AB 1981).

**§ 8113.2. [Section repealed 2002.]**

**HISTORY:** Added Stats 1992 ch 828 § 1 (AB 1981). Repealed Stats 2001 ch 436 § 24 (SB 542). The repealed section related to definitions applicable to chapter.

**§ 8113.3. Exceptions to application of chapter**

(a) This chapter shall not apply to mausoleums, crypts, vaults, or other burial structures designed and constructed to be installed without an earthen cover.

(b) Preexisting and presold vaults and lawn crypts that were in place on January 1, 1993, or for which sales agreements have been executed prior to that date, shall not be subject to this chapter.

**HISTORY:** Added Stats 1992 ch 828 § 1 (AB 1981).

**§ 8113.4. Liability for cost of reburial of remains improperly buried**

Cemeteries shall be liable for the costs of reburial of any remains improperly interred in already occupied graves or interred with less than the amount of turf, dirt, or other covering, as required by this chapter, for burials occurring after January 1, 1993.

**HISTORY:** Added Stats 1992 ch 828 § 1 (AB 1981).

**§ 8113.5. Prohibition of multiple bodies in single plot; Penalties for violation**

(a) Except with the express written permission of the person entitled to control the disposition of the remains, or in the case of a double burial consented to by both parties, no person shall knowingly or willfully inter the remains of more than one body in a single plot, or place a casket or other human remains in an already occupied grave.

(b) Violation of subdivision (a) is a crime punishable as follows:

(1) A first offense, or a second offense not committed within a year of the first, is punishable as a misdemeanor by imprisonment in a county jail not exceeding one year.

(2) A second offense committed within a year of the first offense is punishable as a misdemeanor or a felony by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170 of the Penal Code.

(3) A third or subsequent offense shall be punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

**HISTORY:** Added Stats 1992 ch 828 § 1 (AB 1981). Amended Stats 2011 ch 15 § 143 (AB 109), effective April 4, 2011, operative October 1, 2011.

**§ 8113.6. Disciplinary action by Cemetery and Funeral Bureau**

Notwithstanding any other provision of law, any cemetery that violates any of the requirements of this chapter shall be subject to disciplinary action by the Cemetery and Funeral Bureau.

**HISTORY:** Added Stats 1992 ch 828 § 1 (AB 1981). Amended Stats 2000 ch 568 § 244 (AB 2888).

**§ 8113.7. Statute of limitations**

Notwithstanding any other provision of law, the statute of limitations for any individual's criminal violation of Section 8113.5 shall begin to run at the time the violation is discovered.

**HISTORY:** Added Stats 1996 ch 371 § 1 (AB 2237).

**CHAPTER 4 LOCAL REGULATION OF CEMETERIES**

Section  
8115. Local standards

**HISTORY:** Added Stats 1976 ch 525 § 1.

**§ 8115. Local standards**

The governing body of any city or county, in the exercise of its police power, may by ordinance prescribe such standards governing burial, inurnment, and entombment and such standards of maintenance for cemeteries, including mausoleums and columbariums, as it shall determine to be reasonably necessary to protect the public health or safety, assure decent and respectful treatment of human remains, or prevent offensive deterioration of cemetery grounds, structures, and places of interment. Such standards may be made applicable to every public and private cemetery within the city or county.

Nothing in this section supersedes any provision of this division or Division 7 (commencing with Section 7000) or authorizes the adoption of local standards in conflict with such provisions, except that city or county ordinances adopted pursuant to this section shall prevail over the rules and regulations of any private or public cemetery to the extent of any conflict.

**HISTORY:** Added Stats 1976 ch 525 § 1.

## CHAPTER 4.5 MAINTENANCE OF CEMETERY GROUNDS

### Section

8117. Use of hose bibs

8118. Required signage

**HISTORY:** Added Stats 2013 ch 635 § 3 (AB 803), effective January 1, 2014.

### § 8117. Use of hose bibs

Hose bibs are approved for use at cemeteries supplied with disinfected tertiary treated recycled water.

**HISTORY:** Added Stats 2013 ch 635 § 3 (AB 803), effective January 1, 2014.

### § 8118. Required signage

A cemetery supplied with disinfected tertiary treated recycled water that installs a hose bib in an area subject to access by the general public shall post signage and labeling visible to the general public that the water is nonpotable. The signage and labeling shall be regularly inspected by the water purveyor, as defined in Section 512 of the Water Code, to ensure that the general public has proper notice of this fact.

**HISTORY:** Added Stats 2013 ch 635 § 3 (AB 803), effective January 1, 2014.

## CHAPTER 5 CHANGE IN USE

### Section

8120. Notice to purchasers of interment rights

**HISTORY:** Added Stats 1988 ch 1440 § 2.

### § 8120. Notice to purchasers of interment rights

(a) On or after January 1, 1990, the cemetery authority shall provide written notice to each person who purchases or agrees to purchase interment rights in the cemetery of that person's ability to receive notice, pursuant to Section 65096 of the Government Code, of a proposed change in the use of the cemetery for other than cemetery purposes. Irrespective of any other provisions of the law, this section refers to all cemeteries in the State of California.

(b) The written notice shall be substantially as follows:

"State law gives you the right to know about future plans to use this cemetery for any other purpose. If you want to receive information about a future change, you must contact the local planning office and pay a small fee."

**HISTORY:** Added Stats 1988 ch 1440 § 2.

## PART 2 PUBLIC CEMETERIES

**HISTORY:** Enacted Stats 1939 ch 60.

## CHAPTER 1 GENERAL PROVISIONS

### Section

8125. Authorized survey, lay out, and dedication of public lands; Recording

8125.5. City of Simi Valley; Specified acts authorized

8126. Title by public user

8127. City inhabitants' acquisition and use of lands

8128. Register; Right of inspection

8129. Enclosure and plots

8130. City management and regulation

8131. Control by board of supervisors

8132. Control by associations or societies

8133. Regulations; Appointment of officers

8134. Opening streets and the like

8135. Sale of plots by Department of Water Resources



## Section

8136. Abandoned plots  
8137. Sale of monuments by city cemetery

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8125. Authorized survey, lay out, and dedication of public lands; Recording**

Incorporated cities, and for unincorporated towns the supervisors of the county, may survey, lay out, and dedicate for burial purposes not exceeding five acres of public lands situated in or near the city or town. The survey, description, and a certified copy of the order made constituting the land a cemetery shall be recorded in the recorder's office of the county in which it is located.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 10.

**§ 8125.5. City of Simi Valley; Specified acts authorized**

The City of Simi Valley may survey, lay out, dedicate, own, and operate for burial purposes, or may purchase, or receive by gift or donation, five acres or more of public lands to be used as a public cemetery.

**HISTORY:** Added Stats 2008 ch 126 § 1 (AB 1932), effective January 1, 2009.

**§ 8126. Title by public user**

The title to lands situated in or near any city and used by the inhabitants without interruption as a cemetery for five years is vested in the inhabitants of the city and the lands shall not be used except as a public cemetery.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 1.

**§ 8127. City inhabitants' acquisition and use of lands**

The inhabitants of any city may by subscription or otherwise purchase or receive by gift or donation, lands not exceeding five acres to be used as a cemetery, the title to be vested in the inhabitants, which lands when once dedicated to use for burial purposes, shall not thereafter be used for any other purpose.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 12.

**§ 8128. Register; Right of inspection**

The governing body having control of a public cemetery shall require a register of name, age, birthplace, date of death, and burial of every body interred therein, to be kept by the sexton or other officer. The register shall be open to public inspection.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8129. Enclosure and plots**

The public cemeteries of cities, towns, or neighborhoods or of fraternal or beneficial associations or societies shall be enclosed and laid off into plots.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8130. City management and regulation**

The general management, conduct, and regulation of burials, the disposition of plots, and keeping the plots in order, are under the jurisdiction and control of the city owning the cemetery.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 13.

**§ 8131. Control by board of supervisors**

If not owned by a city or by a fraternal or beneficial association or society, public cemeteries are under the jurisdiction and control of the board of supervisors of the county in which they are situated.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8132. Control by associations or societies**

Public cemeteries of fraternal or beneficial associations or societies are under the jurisdiction of and controlled and managed by the associations or societies or by trustees appointed by them.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8133. Regulations; Appointment of officers**

The authorities having jurisdiction and control of cemeteries may make and enforce general rules and regulations, and appoint sextons or other officers to enforce obedience to the rules and regulations, with such powers and duties regarding the cemetery as may be necessary.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8134. Opening streets and the like**

No streets, alleys, or roads shall be opened or laid out within the boundary lines of any cemetery located in whole or in part within the lines of any city or city and county where burials in the cemetery have been had within five years prior thereto, without the consent of the person owning and controlling the cemetery.

**HISTORY:** Added Stats 1953 ch 83 § 1.

**§ 8135. Sale of plots by Department of Water Resources**

Notwithstanding any other provision of law, the Department of Water Resources may sell plots in any cemetery which is owned by the department on a nonendowment care basis to a relative of the third degree or less of any person buried in such cemetery.

**HISTORY:** Added Stats 1968 ch 816 § 1.

**§ 8136. Abandoned plots**

Any city, including a chartered city, that owns and operates a cemetery may maintain a proceeding in the superior court of the county in which the cemetery is located to have any plot in the cemetery declared abandoned if the present owner of the plot is unknown to the city and a period of at least 50 years has passed since any portion of the plot has been used for interment purposes. The proceeding shall be initiated and conducted in the same manner as prescribed by Section 9069, except that any reference in that section to a public cemetery district shall be deemed to be a reference to the city for purposes of this section.

**HISTORY:** Added Stats 1977 ch 335 § 1. Amended Stats 2003 ch 57 § 3.5 (SB 341).

**§ 8137. Sale of monuments by city cemetery**

A cemetery owned and operated by a city, county, or city and county shall not engage in the business of selling monuments or markers, and its officers and employees who manage, operate, or otherwise maintain such cemetery on a day-to-day basis shall not engage in the private business of selling monuments or markers.

**HISTORY:** Added Stats 1980 ch 161 § 1.

**PART 3 PRIVATE CEMETERIES****Chapter**

1. General Provisions
2. Operation and Management
3. Acquisition, Dedication and Sale
4. Property Rights
5. Endowment and Special Care
7. Abandonment

**HISTORY:** Enacted Stats 1939 ch 60.

**CHAPTER 1 GENERAL PROVISIONS****Section**

8250. Entities exempt from provisions
- 8250.5. "Public cemetery"
8251. Exempted existing corporations
8252. Required operation by corporation
8253. Modification of business entities' powers, privileges, duties, and restrictions

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8250. Entities exempt from provisions**

Except as provided in subdivision (c) of this section, the provisions of this part do not apply to any of the following:

(a) Any religious corporation, church, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them.

(b) Any public cemetery.

(c) Any private or fraternal burial park not exceeding 10 acres in area, heretofore established; provided, however, (1) that the provisions of Chapter 6 (commencing at Section 8800) and Chapter 7 (commencing at Section 8825) of this part are applicable thereto, and (2) all of the provisions of this part shall apply to any such cemetery that collects a care, maintenance or embellishment deposit or funds for commodities or services.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 14; Stats 1959 ch 770 § 1; Stats 1972 ch 1269 § 2.

### **§ 8250.5. “Public cemetery”**

As used in Section 8250 of this code, a public cemetery is a cemetery owned and operated by a city, county, city and county, or public cemetery district.

**HISTORY:** Added Stats 1953 ch 386 § 16.

### **§ 8251. Exempted existing corporations**

The provisions of this part do not affect the corporate existence of any cemetery organized under any law then existing prior to August 14, 1931, and as to such cemeteries, and their rights, the laws under which the corporation was organized and existed and under which such rights became vested are applicable.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8252. Required operation by corporation**

It is unlawful for any corporation, copartnership, firm, trust, association, or individual to engage in or transact any of the businesses of a cemetery within this state except by means of a corporation or limited liability company duly organized for these purposes.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1953 ch 1161 § 1; Stats 2008 ch 114 § 4 (SB 1225), effective January 1, 2009.

### **§ 8253. Modification of business entities’ powers, privileges, duties, and restrictions**

The powers, privileges, duties and restrictions conferred and imposed upon any corporation, firm, copartnership, association, trust or individual, existing and doing business under the laws of this State, are hereby enlarged or modified as each particular case may require to conform to the provisions of this part notwithstanding anything to the contrary in their respective articles of incorporation, charter or other evidence of organization.

**HISTORY:** Enacted Stats 1939 ch 60.

## **CHAPTER 2 OPERATION AND MANAGEMENT**

### **Article**

1. General Provisions.
2. Rules and Regulations.
3. Police Power.
4. Records.
5. Operation of Crematories.
6. Contract Limitations.
7. Restrictions on Officers.
8. Hydrolysis Facilities.
9. Reduction Facilities [Operative January 1, 2027].

**HISTORY:** Enacted Stats 1939 ch 60.

## **ARTICLE 1 GENERAL PROVISIONS**

### **Section**

8275. Authority to establish, maintain, manage, improve or operate business
8276. Uniform charges; Separate statements
8277. Form and content of contracts
8278. Cancellation of contracts
8279. Compliance with Mausoleum and Columbarium Law

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8275. Authority to establish, maintain, manage, improve or operate business**

Any private corporation authorized by its articles so to do, may establish, maintain, manage, improve, or operate a cemetery, and conduct any or all of the businesses of a cemetery, either for or without profit to its members or stockholders.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8276. Uniform charges; Separate statements**

Charges made by a cemetery authority for foundations, for setting of or permitting the setting of, or for endowment care of, grave markers or monuments, shall be uniform whether the marker or monument sale was made by the cemetery authority or by another person, firm, or corporation. The amount charged for the marker or monument, the foundation, the setting, permitting the setting and the deposit for endowment care, shall be separately stated, in the contract of sale, when applicable.

**HISTORY:** Added Stats 1961 ch 711 § 1.

**§ 8277. Form and content of contracts**

Every contract of a cemetery authority, including contracts executed in behalf thereof by a cemetery broker or salesperson, which provides for the sale by the cemetery authority of an interment plot or any service or merchandise, shall be in writing and shall contain all of the agreements of the parties. The contract shall include and disclose the following:

- (a) The total contract price.
- (b) Terms of payment, including any promissory notes or other evidences of indebtedness.
- (c) An itemized statement of charges including, as applicable, the following:
  - (1) Charges for an interment plot.
  - (2) Charges for performing burial, entombment, or inurnment.
  - (3) Charges for a monument or marker.
  - (4) Charges for any services to be rendered in connection with any religious or other observance at the site of interment or in any facility maintained by the cemetery.
  - (5) Amounts to be deposited in any endowment care or special care fund.
  - (6) Charges for any insurance to be provided in connection with the contract.
  - (7) Any other charges, which shall be particularized.
  - (8) Space and location sold.

**HISTORY:** Added Stats 1976 ch 729 § 3. Amended Stats 2003 ch 874 § 35 (SB 363).

**§ 8278. Cancellation of contracts**

In addition to any right of rescission which the purchaser may have under law, a purchaser entering into a contract with a cemetery broker, salesman, or authority for the provision of an interment plot or any service or merchandise, may cancel such contract without payment of a revocation fee or other penalty, within five calendar days after the purchaser signs it, by giving written notice of cancellation to the seller at the address specified in the contract. The notice need not be in any particular form, but shall indicate the purchaser's intent not to be bound by the contract. Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

Every such contract shall contain in immediate proximity to the space reserved for the purchaser's signature, in a size equal to at least 10-point bold type, the following statement: "You, the purchaser, may cancel this transaction at any time prior to midnight of the fifth calendar day after the date of this transaction, provided no interment or substantial service or merchandise has been provided hereunder. To cancel, deliver or mail written notice of your intent to (name and address of cemetery authority or cemetery broker)."

Upon receipt of a valid notice of cancellation pursuant to this section, the cemetery authority or broker having custody of any money or property paid or transmitted by the purchaser on account of the preneed interment contract shall return such money or property to the purchaser. The cemetery authority or broker shall promptly notify the trustee if any such money or property has been transmitted thereto prior to receipt of the notice of cancellation. It shall be unlawful for any person to retain money or property received from a purchaser under such contract more than five business days after receiving or being apprised of a valid notice of cancellation.

Notwithstanding other provisions of this section, the right of cancellation granted hereby shall not be applicable if an interment has been made, or substantial services or merchandise provided, under the terms of the contract. This section shall supersede existing provisions of Sections 1689.6 to 1689.11, inclusive, of the Civil Code.

**HISTORY:** Added Stats 1976 ch 729 § 4.

### **§ 8279. Compliance with Mausoleum and Columbarium Law**

A cemetery authority shall comply with the Mausoleum and Columbarium Law (Part 5 (commencing with Section 9501)).

**HISTORY:** Added Stats 1999 ch 207 § 1 (SB 954).

## **ARTICLE 2 RULES AND REGULATIONS**

Section

8300. Regulatory powers generally

8301.5. Discrimination by race or gender

8309. Legibility and inspection of regulations

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8300. Regulatory powers generally**

(a) A cemetery authority may make, adopt, amend, add to, revise, or modify, and enforce rules and regulations for the use, care, control, management, restriction and protection of all or any part of its cemetery and for the other purposes specified in this article.

(b) The cemetery authority's power includes, but is not limited to, the following:

(1) Restricting and limiting the use of all property within its cemetery.

(2) Regulating the uniformity, class, and kind of all markers, monuments, and other structures within the cemetery and its subdivisions, but shall not require, as a condition to the erection of a marker, monument, or other structure within the cemetery, that the marker, monument, or other structure be purchased from or through the cemetery authority.

(3) Prohibiting the erection of monuments, markers, or other structures in or upon any portion of the cemetery.

(4) Regulating or prohibiting monuments, effigies, and structures within any portion of the cemetery and provide for their removal.

(5) Regulating or preventing the introduction or care of plants or shrubs within the cemetery.

(6) Preventing interment in any part of the cemetery of human remains not entitled to interment and preventing the use of interment plots for purposes violative of its restrictions or rules and regulations.

(7) Regulating the conduct of persons and preventing improper assemblages in the cemetery.

(8) Making and enforcing rules and regulations for all other purposes deemed necessary by the cemetery authority for the proper conduct of the business of the cemetery, for the transfer of any plot or the right of interment, and the protection and safeguarding of the premises, and the principles, plans, and ideals on which the cemetery is conducted.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 25 (SB 542).

### **§ 8301.5. Discrimination by race or gender**

(a) Nothing in Section 8301 shall be construed to permit a cemetery authority to discriminate against any person based upon race or gender regarding the use of any property within the cemetery.

(b) The Legislature recognizes, however, that although discrimination against persons based upon race or gender is prohibited, there are strong cultural, social, and other proper reasons for people to seek to continue association with certain groups even in death.

(c) In the same way that a family may purchase contiguous plots to ensure that family members will be buried in close proximity to one another, and in the same way that a religious group may, similarly, establish and operate a cemetery for its members, or that veterans groups may establish and operate cemeteries for veterans, the law recognizes that members of cultural, social, or other groups with strong ties are not precluded from establishing and operating cemeteries for the purpose of furthering their desire to continue to associate after interment.

(d) The urge to associate even after death also stems from an intense social and cultural need to ensure that people are connected with their past, and also to ensure that the graves and surrounding grounds are kept, tended, adorned, and embellished according to the desires and beliefs of the decedent, family, or group.

(e) The Legislature also recognizes, that the creation or operation of a cemetery for a particular group by necessity entails some exclusionary aspects. However, the exclusionary aspects are permitted only to the



extent that the purpose and effect is to include persons, as set forth in this section, rather than to exclude persons based upon race or gender.

(f) Although it is, indeed, a difficult task to permit creation and operation of cemeteries that may exclude persons that are not within the social, cultural, or other group while also assuring that the cemetery is not discriminating based upon race or gender, strong public policy compels that we perform the task. To prohibit all association limitations in the creation and operation of cemeteries would certainly ensure that no discrimination based upon race or gender occurred; however, it would be overbroad in that it would preclude activity that is not so motivated and that does not have that effect.

(g) Therefore, subdivision (a) does not preclude the establishment or operation of cemeteries for the purposes set forth in this section to the extent that, and so long as the purpose and effect is to further a sincere and bona fide association interest, rather than to discriminate against persons on the basis of race or gender.

(h) Nothing in this section applies to Native American tribal burial grounds or cemeteries that, pursuant to federal law, are not subject to state jurisdiction.

**HISTORY:** Added Stats 1996 ch 769 § 1 (AB 2238).

### **§ 8309. Legibility and inspection of regulations**

The rules and regulations shall be plainly printed or typewritten and maintained subject to inspection in the office of the cemetery authority or in such place or places within the cemetery as the cemetery authority may prescribe.

**HISTORY:** Enacted Stats 1939 ch 60.

## **ARTICLE 3 POLICE POWER**

Section  
8325. Arrest

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8325. Arrest**

Persons designated by a cemetery authority have the powers of arrest as provided in Section 830.7 of the Penal Code for the purpose of maintaining order, enforcing the rules and regulations of the cemetery association, the laws of the state, and the ordinances of the city or county, within the cemetery over which he has charge, and within such radius as may be necessary to protect the cemetery property.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 16; Stats 1968 ch 1222 § 42; Stats 1980 ch 1340 § 2, effective September 30, 1980.

## **ARTICLE 4 RECORDS**

Section  
8330. Record of interments  
8331. Record of ownership and transfer of plots

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8330. Record of interments**

A record shall be kept of every interment showing the date the human remains were received, the date of interment, the name and age of the person interred, when these particulars can be conveniently obtained, and the plot in which interment was made.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8331. Record of ownership and transfer of plots**

A record shall be kept of the ownership of all plots in the cemetery which have been conveyed by the cemetery authority and of all transfers of plots in the cemetery. Transfer of any plot, heretofore or hereafter made, or any right of interment, shall be complete and effective when recorded on the books of the cemetery authority.

**HISTORY:** Added Stats 1939 ch 339 § 17. Amended Stats 1982 ch 176 § 1.

## **ARTICLE 5 OPERATION OF CREMATORIES**

Section  
8341. Interment of cremated remains

## Section

- 8342. Prohibition against requiring casket; Misdemeanor
- 8343. Cremation records; Required information
- 8344. Identification of cremated decedents; Time for compliance
- 8344.5. Limitations on what may be cremated
- 8344.6. Maintenance of record of American flags incinerated
- 8345. Provision of cremated remains container by crematory
- 8345.5. Prerequisites for acceptance of remains
- 8346. Storing of body
- 8346.5. Provision of information by crematory operator
- 8347. Instruction of crematory personnel; Written instruction plan; Time frame for compliance

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8341. Interment of cremated remains

All cremated remains not disposed of in accordance with this chapter, within one year, shall be interred.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1965 ch 1421 § 10; Stats 1993 ch 1232 § 27 (AB 598).

### § 8342. Prohibition against requiring casket; Misdemeanor

No crematory shall make or enforce any rules requiring that human remains be placed in a casket before cremation or that human remains be cremated in a casket, nor shall a crematory refuse to accept human remains for cremation for the reason that they are not in a casket. Every director, officer, agent or representative of a crematory who violates this section is guilty of a misdemeanor. Nothing in this section shall be construed to prohibit the requiring of some type of container or disposal unit.

**HISTORY:** Added Stats 1971 ch 1027 § 2.

### § 8343. Cremation records; Required information

A crematory shall maintain on its premises, or other business location within the State of California, an accurate record of all cremations performed, including all of the following information:

- (a) Name of referring funeral director, if any.
- (b) Name of deceased.
- (c) Date of cremation.
- (d) Name of cremation chamber operator.
- (e) Time and date that body was inserted in cremation chamber.
- (f) Time and date that body was removed from cremation chamber.
- (g) Time and date that final processing of cremated remains was completed.
- (h) Disposition of cremated remains.
- (i) Name and address of authorizing agent.
- (j) The identification number assigned to the deceased pursuant to Section 8344.
- (k) A photocopy of the disposition permit filed in connection with the disposition.

This information shall be maintained for at least 10 years after the cremation is performed and shall be subject to inspection by the Cemetery and Funeral Bureau.

**HISTORY:** Added Stats 1993 ch 1232 § 28 (AB 598). Amended Stats 2000 ch 568 § 245 (AB 2888).

### § 8344. Identification of cremated decedents; Time for compliance

A crematory shall maintain an identification system allowing identification of each decedent beginning from the time the crematory accepts delivery of human remains until the point at which it releases the cremated remains to a third party. After cremation, an identifying disk, tab, or other permanent label shall be placed within the urn or cremated remains container before the cremated remains are released from the crematory. Each identification disk, tab, or label shall contain the license number of the crematory and shall have a unique number that shall be recorded on all paperwork regarding the decedent's case and in the crematory log. Each crematory shall maintain a written procedure for identification of remains. The identification requirements pertaining to an identifying disk, tab, or other label to be placed within the urn or cremated remains container shall not apply to cremated remains placed in a keepsake urn pursuant to subdivision (b) of Section 7054.6 if space does not permit.

On or after March 1, 1994, any crematory that fails, when requested by an official of the bureau to produce a written procedure for identification of remains, shall have 15 working days from the time of the request to produce an identification procedure for review by the chief of the Cemetery and Funeral Bureau. The license of the crematory shall be suspended pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of

Division 3 of Title 2 of the Government Code, if no identification procedure is produced for review after 15 working days have elapsed.

**HISTORY:** Added Stats 1993 ch 1232 § 29 (AB 598). Amended Stats 2000 ch 568 § 246 (AB 2888); Stats 2010 ch 415 § 35 (SB 1491), effective January 1, 2011.

#### **§ 8344.5. Limitations on what may be cremated**

(a) Except as provided in subdivision (b) or (c), a crematory regulated by the Cemetery and Funeral Bureau shall knowingly cremate only human remains in cremation chambers, along with the cremation container, personal effects of the deceased, and no more than a negligible amount of chlorinated plastic pouches utilized for disease control when necessary.

(b) Upon request of the person with the authority to dispose of the remains, a crematory may cremate the remains of a person who was a member of a branch of the United States military with a single American flag. A flag incinerated pursuant to this subdivision is not subject to the requirements of Section 8344.6.

(c)(1) Notwithstanding any other law, a crematory regulated by the Cemetery and Funeral Bureau also may incinerate one or more American flags, under the following conditions:

(A) Incineration of the flag or flags is performed separately from the cremation of human remains, as provided in subdivision (a).

(B) Incineration of the flag or flags is in accordance with Section 8(k) of Title 4 of the United States Code.

(C) Incineration of the flag or flags occurs within one week before or after any of the following:

(i) Presidents' Day.

(ii) Memorial Day.

(iii) Flag Day.

(iv) Independence Day.

(v) Veterans' Day.

(2) This subdivision does not attempt to restrict or otherwise infringe upon any person's right to free expression under the First Amendment to the United States Constitution.

**HISTORY:** Added Stats 1993 ch 1232 § 30 (AB 598). Amended Stats 1994 ch 570 § 9 (AB 1392); Stats 2000 ch 568 § 247 (AB 2888); Stats 2013 ch 205 § 1 (SB 119), effective January 1, 2014; Stats 2020 ch 72 § 1 (AB 2134), effective January 1, 2021; Stats 2021 ch 118 § 1 (AB 496), effective January 1, 2022.

#### **§ 8344.6. Maintenance of record of American flags incinerated**

(a) A crematory that incinerates an American flag or flags pursuant to Section 8344.5 shall maintain on its premises an accurate record of all American flags incinerated as specified in Section 8344.5, including all of the following information:

(1) Name of the organization or person requesting incineration of the flag or flags.

(2) Date of incineration of the flag or flags.

(3) Name of the cremation chamber operator.

(4) Time and date that the flag or flags were inserted in the cremation chamber.

(5) Time and date that the flag or flags were removed from the cremation chamber.

(6) Weight of the ashes of the flag or flags after being removed from the cremation chamber.

(7) Disposition of the ashes of the incinerated flag or flags.

(b) This information shall be maintained in the crematory log for at least 10 years after the incineration of an American flag or flags and shall be subject to inspection by the Cemetery and Funeral Bureau.

**HISTORY:** Added Stats 2013 ch 205 § 2 (SB 119), effective January 1, 2014.

#### **§ 8345. Provision of cremated remains container by crematory**

If a cremated remains container is of insufficient capacity to accommodate all cremated remains of a given deceased, the crematory shall provide a larger cremated remains container at no additional cost, or place the excess remains in a secondary cremated remains container and attach the second container, in a manner so as not to be easily detached through incidental contact, to the primary cremated remains container for interment, scattering, or other disposition by the person entitled to control the disposition.

**HISTORY:** Added Stats 1993 ch 1232 § 31 (AB 598).

#### **§ 8345.5. Prerequisites for acceptance of remains**

A crematory shall not accept human remains for cremation unless the remains meet all of the following requirements:

(a) The remains shall be in a cremation container, as defined.

(b) The cremation container shall be labeled with the identity of the decedent.

**HISTORY:** Added Stats 1993 ch 1232 § 32 (AB 598).

### **§ 8346. Storing of body**

Within two hours after a crematory licensed by the State of California takes custody of a body that has not been embalmed, it shall refrigerate the body at a temperature not greater than 50 degrees Fahrenheit unless the cremation process will begin within 24 hours of the time that crematory took custody.

**HISTORY:** Added Stats 1993 ch 1232 § 33 (AB 598). Amended Stats 1994 ch 570 § 10 (AB 1392).

### **§ 8346.5. Provision of information by crematory operator**

Every crematory operator, or duly authorized representative shall provide to any person who inquires in person, a written, or printed list of prices for cremation and storage, cremation containers, cremated remains containers and urns, and requirements for cremation containers. This information shall be provided over the telephone when requested. Commencing July 1, 1994, any written or printed list shall identify the crematorium and shall contain, at a minimum, the current address and phone number of the Cemetery and Funeral Bureau in 8-point boldface type, or larger.

**HISTORY:** Added Stats 1993 ch 1232 § 34 (AB 598). Amended Stats 2000 ch 568 § 248 (AB 2888).

### **§ 8347. Instruction of crematory personnel; Written instruction plan; Time frame for compliance**

(a) The crematory licensee, or his or her authorized representative shall provide instruction to all crematory personnel involved in the cremation process. This instruction shall lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during cremation, operation of the cremation chamber and processing equipment and all laws relevant to the handling of a body and cremated remains. This instruction shall be outlined in a written plan maintained by the crematory licensee for inspection and comment by an inspector of the Cemetery and Funeral Bureau.

(b) No employee shall be allowed to operate any cremation equipment until he or she has demonstrated to the licensee or authorized representative that he or she understands procedures required to ensure that health and safety conditions are maintained at the crematory and that cremated remains are not commingled other than for acceptable residue, as defined. The crematory licensee shall maintain a record to document that an employee has received the training specified in this section.

(c) On or after March 1, 1994, any crematory that fails, when requested by an official of the bureau, to produce a written employee instruction plan, or record of employee training for inspection, shall have 15 working days from the time of the request to produce a plan or training record for review by the chief of the Cemetery and Funeral Bureau. The license of the crematory shall be suspended, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no plan or training record is produced for review after 15 working days have elapsed.

**HISTORY:** Added Stats 1993 ch 1232 § 35 (AB 598). Amended Stats 2000 ch 568 § 249 (AB 2888).

## **ARTICLE 6 CONTRACT LIMITATIONS**

Section

8350. Corporate powers

8351. Subjection and subordination of liens to dedication

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8350. Corporate powers**

Unless otherwise limited by the law under which created, cemetery authorities shall in the conduct of their business have the same powers granted by law to corporations in general, including the right to contract such pecuniary obligations within the limitation of general law as may be required, and may secure them by mortgage, deed of trust, or otherwise upon their property.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8351. Subjection and subordination of liens to dedication**

All mortgages, deeds of trust, and other liens of any nature, hereafter contracted, placed or incurred upon property which has been and was at the time of the creation or placing of the lien, dedicated as a cemetery pursuant to this part, or upon property which is afterwards, with the consent of the owner of any mortgage, trust deed, or lien, dedicated to cemetery purposes pursuant to this part, shall not affect or defeat the dedication, but the mortgage, deed of trust or other lien is subject and subordinate to such dedication and any and all sales made upon foreclosure are subject and subordinate to the dedication for cemetery purposes.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 7 RESTRICTIONS ON OFFICERS**

## Section

- 8360. Borrowing from corporation or association
- 8361. Vacancy in office of violator
- 8362. Misdemeanor

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8360. Borrowing from corporation or association**

No director or officer of any cemetery authority shall directly or indirectly, for himself or as the partner or agent of others, borrow any funds of the corporation or association, nor may he become an indorser or surety for loans to others, nor in any manner be an obligor for money borrowed of or loaned by the corporation or association, nor shall a corporation of which a director or an officer is a stockholder, or in which either of them is in any manner interested, borrow any of the funds of the corporation or association.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8361. Vacancy in office of violator**

The office of any director or officer who acts or permits action contrary to this article immediately thereupon becomes vacant.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8362. Misdemeanor**

Every director or officer authorizing or consenting to a loan, and the person who receives a loan, in violation of this article are severally guilty of a misdemeanor.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 8 HYDROLYSIS FACILITIES**

## Section

- 8370. Disposal of remains; Time limits
- 8372. Remains placed in casket not required
- 8374. Recordkeeping
- 8376. Identification system
- 8378. Refrigeration of body
- 8380. Instruction for personnel
- 8382. Operative date of article

**HISTORY:** Added Stats 2017 ch 846 § 69 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 8370. Disposal of remains; Time limits**

All hydrolyzed human remains not disposed of in accordance with this chapter, within one year, shall be interred.

**HISTORY:** Added Stats 2017 ch 846 § 69 (AB 967), effective January 1, 2018, operative July 1, 2020.

**§ 8372. Remains placed in casket not required**

A hydrolysis facility shall not make or enforce any rules requiring that human remains be placed in a casket before hydrolysis or that human remains be hydrolyzed in a casket, nor shall a hydrolysis facility refuse to accept human remains for hydrolysis for the reason that they are not in a casket. Every director, officer, agent, or representative of a hydrolysis facility who violates this section is guilty of a misdemeanor. Nothing



in this section shall be construed to prohibit the requiring of some type of container or disposal unit, as specified in Section 7006.6.

**HISTORY:** Added Stats 2017 ch 846 § 69 (AB 967), effective January 1, 2018, operative July 1, 2020.

### § 8374. Recordkeeping

(a) A hydrolysis facility shall maintain on its premises, or other business location within the state, an accurate record of all hydrolyses performed, including all of the following information:

- (1) Name of the referring funeral director, if any.
- (2) Name of the deceased.
- (3) Date of the hydrolysis.
- (4) Name of the hydrolysis chamber operator.
- (5) Disposition of the hydrolyzed human remains.
- (6) Time and date that the body was inserted into the hydrolysis chamber.
- (7) Time and date that the body was removed from the hydrolysis chamber.
- (8) Time and date that final processing of the hydrolyzed human remains was complete.
- (9) Name and address of the authorizing agent.
- (10) Identification number assigned to the deceased, pursuant to Section 8376.
- (11) A photocopy of the disposition permit filed in connection with the disposition.
- (12) Any documentation of compliance with appropriate environmental and safety laws.
- (13) Body mass of the deceased, along with temperature, time duration, and pressure at which the hydrolysis was performed.

(b) A hydrolysis facility shall maintain on its premises, or other business location within the state, records of the maintenance performed on the hydrolysis chamber.

(c) Information described in this section shall be maintained for at least 10 years after the hydrolysis is performed and shall be subject to inspection by the Cemetery and Funeral Bureau.

**HISTORY:** Added Stats 2017 ch 846 § 69 (AB 967), effective January 1, 2018, operative July 1, 2020.

### § 8376. Identification system

(a) A hydrolysis facility shall maintain an identification system allowing identification of each decedent beginning from the time the hydrolysis facility accepts delivery of human remains until the point at which it releases the hydrolyzed human remains to a third party. After hydrolysis, an identifying disk, tab, or other permanent label shall be placed with the urn or hydrolyzed human remains container before the hydrolyzed human remains are released from the hydrolysis facility. Each identification disk, tab, or label shall contain the license number of the hydrolysis facility and shall have a unique number that shall be recorded on all documents regarding the decedent and in the hydrolysis log. Each hydrolysis facility shall maintain a written procedure for identification of remains. The identification requirements pertaining to an identifying disk, tab, or other label to be placed within the urn or hydrolyzed human remains container shall not apply to hydrolyzed human remains placed in a keepsake urn pursuant to subdivision (b) of Section 7054.6 if space does not permit.

(b) A hydrolysis facility that fails, when requested by an official of the Cemetery and Funeral Bureau, to produce a written procedure for identification of remains shall have 15 working days from the time of the request to produce an identification procedure for review by the chief of the Cemetery and Funeral Bureau. The license of the hydrolysis facility shall be suspended pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no identification procedure is produced for review after 15 working days have elapsed.

**HISTORY:** Added Stats 2017 ch 846 § 69 (AB 967), effective January 1, 2018, operative July 1, 2020.

### § 8378. Refrigeration of body

Within two hours after a licensed hydrolysis facility takes custody of a body that has not been embalmed, it shall refrigerate the body at a temperature not greater than 50 degrees Fahrenheit, unless the hydrolysis process will begin within 24 hours of the time that the hydrolysis facility took custody.

**HISTORY:** Added Stats 2017 ch 846 § 69 (AB 967), effective January 1, 2018, operative July 1, 2020.

### § 8380. Instruction for personnel

(a) The hydrolysis facility licensee, or its authorized representatives, shall provide instruction to all hydrolysis facility personnel involved in the hydrolysis process. This instruction shall lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during hydrolysis, operation of the

hydrolysis chamber and processing equipment, safe work practices and procedures for the handling of corrosive materials, and all laws relevant to the handling of a body and hydrolyzed human remains. This instruction shall be outlined in a written plan maintained by the hydrolysis facility licensee for inspection and comment by an inspector of the Cemetery and Funeral Bureau.

(b) No employee shall be allowed to operate any hydrolysis equipment until the employee has demonstrated to the certified manager of a licensed hydrolysis facility or authorized representative of the licensee that the employee understands the procedures required to ensure that health and safety conditions are maintained at the hydrolysis facility and that hydrolyzed human remains are not commingled other than for acceptable residue, as defined. The hydrolysis facility licensee shall maintain a record to document that an employee has received the training specified in this section.

(c) A hydrolysis facility that fails, when requested by an official of the bureau, to produce a written employee instruction plan or record of employee training for inspection shall have 15 working days from the time of the request to produce a plan or training record for review by the chief of the Cemetery and Funeral Bureau. The license of a hydrolysis facility shall be suspended, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no plan or training record is produced for review after 15 working days have elapsed.

**HISTORY:** Added Stats 2017 ch 846 § 69 (AB 967), effective January 1, 2018, operative July 1, 2020.

### **§ 8382. Operative date of article**

This article shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 69 (AB 967), effective January 1, 2018, operative July 1, 2020.

## **ARTICLE 9 REDUCTION FACILITIES [OPERATIVE JANUARY 1, 2027]**

### Section

- 8390. Requirements for disposal of reduced human remains [Operative January 1, 2027]
- 8391. Casket cannot be required [Operative January 1, 2027]
- 8392. Records to be maintained [Operative January 1, 2027]
- 8393. Identification system [Operative January 1, 2027]
- 8394. Storage temperature [Operative January 1, 2027]
- 8395. Required instructions [Operative January 1, 2027]
- 8396. Operative date [Operative January 1, 2027]

**HISTORY:** Added Stats 2022 ch 399 § 45 (AB 351), effective January 1, 2023, operative January 1, 2027.

### **§ 8390. Requirements for disposal of reduced human remains [Operative January 1, 2027]**

All reduced human remains not disposed of in accordance with this chapter shall be disposed of pursuant to Section 7714.4 of the Business and Professions Code.

**HISTORY:** Added Stats 2022 ch 399 § 45 (AB 351), effective January 1, 2023, operative January 1, 2027.

### **§ 8391. Casket cannot be required [Operative January 1, 2027]**

A reduction facility shall not make or enforce rules requiring that human remains be placed in a casket before reduction, nor shall a reduction facility refuse to accept human remains for reduction for the reason that they are not in a casket. A director, officer, agent, or representative of a reduction facility who violates this section is guilty of a misdemeanor. This section does not prohibit a facility from requiring some type of container or disposal unit.

**HISTORY:** Added Stats 2022 ch 399 § 45 (AB 351), effective January 1, 2023, operative January 1, 2027.

### **§ 8392. Records to be maintained [Operative January 1, 2027]**

(a) A reduction facility shall maintain on its premises, or other business location within the state, an accurate record of all reductions performed, including all of the following information:

- (1) Name of the referring funeral director, if any.
- (2) Name of the deceased.
- (3) Date of the reduction.
- (4) Disposition of the reduced human remains, including split disposition where a portion of the remains are returned to the person entitled to control the disposition of the remains and a portion integrated into the soil in a conservation area pursuant to Section 7054.5.
- (5) Time and date that the body was inserted into the reduction chamber.
- (6) Time and date that the body was removed from the reduction chamber.

(7) Time and date that final processing of the reduced human remains was complete.

(8) Name and address of the authorizing agent.

(9) Identification number assigned to the deceased, pursuant to Section 8393.

(10) A photocopy of the disposition permit filed in connection with the disposition.

(11) Any documentation of compliance with appropriate environmental and safety laws.

(b) A reduction facility shall maintain on its premises, or other business location within the state, records of the maintenance performed on the reduction chamber or chambers.

(c) Information described in this section shall be maintained for at least 10 years after the reduction is performed and shall be subject to inspection by the Cemetery and Funeral Bureau.

**HISTORY:** Added Stats 2022 ch 399 § 45 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 8393. Identification system [Operative January 1, 2027]**

(a) A reduction facility shall maintain an identification system allowing identification of each decedent beginning from the time the reduction facility accepts delivery of human remains until the point at which it releases the reduced human remains to a third party. After reduction, an identifying disk, tab, or other permanent label shall be placed with the reduced human remains container or containers before the reduced human remains are released from the licensed reduction facility. Each identification disk, tab, or label shall contain the license number of the reduction facility and shall have a unique number that shall be recorded on all documents regarding the decedent and in the reduction log. Each reduction facility shall maintain a written procedure for identification of remains.

(b) A reduction facility that fails, when requested by an official of the Cemetery and Funeral Bureau, to produce a written procedure for identification of remains shall have 15 working days from the time of the request to produce an identification procedure for review by the chief of the Cemetery and Funeral Bureau. The license of the reduction facility shall be suspended pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no identification procedure is produced for review after 15 working days have elapsed.

**HISTORY:** Added Stats 2022 ch 399 § 45 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 8394. Storage temperature [Operative January 1, 2027]**

Within two hours after a reduction facility takes custody of a body that has not been embalmed, it shall refrigerate the body at a temperature not greater than 50 degrees Fahrenheit, unless the reduction process will begin within 24 hours of the time that the facility took custody.

**HISTORY:** Added Stats 2022 ch 399 § 45 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 8395. Required instructions [Operative January 1, 2027]**

(a) The reduction facility licensee, or its authorized representatives, shall provide instruction to all facility personnel involved in the reduction process. This instruction shall lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during reduction, operation of the reduction chamber and related equipment, and all laws relevant to the handling of a body and reduced human remains. This instruction shall be outlined in a written plan maintained by the reduction facility licensee for inspection and comment by an inspector of the Cemetery and Funeral Bureau.

(b) An employee shall not be allowed to operate a reduction chamber or related equipment until the employee has demonstrated to the certified manager of the reduction facility or authorized representative of the licensee that the employee understands the procedures required to ensure that health and safety conditions are maintained at the reduction facility and that reduced human remains are not commingled other than as authorized by law. The reduction facility licensee shall maintain a record to document that an employee has received the training specified in this section.

(c) A reduction facility that fails, when requested by an official of the bureau, to produce a written employee instruction plan or record of employee training for inspection shall have 15 working days from the time of the request to produce a plan or training record for review by the chief of the bureau. The license of a reduction facility shall be suspended, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no plan or training record is produced for review after 15 working days have elapsed.

**HISTORY:** Added Stats 2022 ch 399 § 45 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 8396. Operative date [Operative January 1, 2027]**

This article shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 45 (AB 351), effective January 1, 2023, operative January 1, 2027.

## CHAPTER 3 ACQUISITION, DEDICATION AND SALE

### Article

1. Acquisition of Property.
2. Declaration of Intention.
3. Dedication.
4. Sale of Plots.
5. Removal of Dedication.
6. Transfer of Cemetery Ownership.

**HISTORY:** Enacted Stats 1939 ch 60.

## ARTICLE 1 ACQUISITION OF PROPERTY

### Section

8500. Power to acquire property  
8501. Power of eminent domain

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8500. Power to acquire property

Cemetery authorities may take by purchase, donation or devise, property consisting of lands, mausoleums, crematories, and columbariums, or other property within which the interment of the dead may be authorized by law.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8501. Power of eminent domain

Any cemetery authority which is described in Section 23701c of the Revenue and Taxation Code or is a corporation sole may acquire by eminent domain any property necessary to enlarge and add to an existing cemetery for the burial of the dead and the grounds thereof.

**HISTORY:** Added Stats 1975 ch 1240 § 45, operative July 1, 1976.

## ARTICLE 2 DECLARATION OF INTENTION

### Section

8525. Execution of declaration  
8526. Recording

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8525. Execution of declaration

A cemetery authority may execute a declaration acknowledged so as to entitle it to be recorded, describing the property and declaring its intention to use all or part of the property for cemetery purposes.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8526. Recording

The declaration may be filed for record in the office of the recorder of the county in which the property is situated, and from the date of filing the declaration is constructive notice of the use for which the property is intended.

**HISTORY:** Enacted Stats 1939 ch 60.

## ARTICLE 3 DEDICATION

### Section

8550. Survey and subdivision of property; Map or plat  
8551. Recording map and declaration  
8552. Form, subscription, and acknowledgment of declaration  
8553. Completion of dedication  
8554. Resurvey of reserved areas; Filing amended map  
8555. Constructive notice of dedication  
8556. Filing and indexing map; Fee  
8557. Recording and indexing declaration  
8558. Subsequent events not affecting dedication or title  
8559. Validity as perpetuity or restraint on alienation  
8560. Consent required for public thoroughfare or utility

## Section

8560.5. Consent required for opening or laying out streets, alleys, or roads

8561. Exemptions accorded dedicated property

**HISTORY:** Enacted Stats 1939 ch 60.**§ 8550. Survey and subdivision of property; Map or plat**

Every cemetery authority, from time to time as its property may be required for interment purposes, shall:

(a) In case of land, survey and subdivide it into sections, blocks, plots, avenues, walks or other subdivisions; make a good and substantial map or plat showing the sections, plots, avenues, walks or other subdivisions, with descriptive names or numbers.

(b) In case of a mausoleum, or crematory and columbarium it shall make a good and substantial map or plat on which shall be delineated the sections, halls, rooms, corridors, elevations, and other divisions, with descriptive names or numbers.

(c) The maps or plats shall be clearly and legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. If ink is used on a polyester base film, the ink surface shall be coated with a suitable substance to insure permanent legibility. The size of each sheet shall be 18 by 26 inches or as otherwise prescribed by the county recorder or local agency. A marginal line shall be drawn completely around each sheet, leaving an entire blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheets and the total number of sheets comprising the map shall be stated on each of the sheets and its relationship to each adjoining sheet shall be clearly shown.

(d) Upon modification of an existing section after January 1, 1990, or development of a new section after January 1, 1990, the cemetery authority shall amend and file with the county recorder or local agency the maps or plats as described in subdivisions (a), (b), and (c). Within 12 months of the initial sale, the cemetery authority shall file with the county recorder or local agency the map or plat. For purposes of this subdivision, "section" means a burial space, mausoleum, or columbarium.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1957 ch 1865 § 1; Stats 1971 ch 1594 § 1; Stats 1997 ch 142 § 7 (AB 603).**§ 8551. Recording map and declaration**

The cemetery authority shall file the map or plat in the office of the recorder of the county in which all or a portion of the property is situated. The cemetery authority shall also file for record in the county recorder's office a written declaration of dedication of the property delineated on the plat or map, dedicating the property exclusively to cemetery purposes.

**HISTORY:** Enacted Stats 1939 ch 60.**§ 8552. Form, subscription, and acknowledgment of declaration**

The declaration shall be in such form as the cemetery authority may prescribe, and shall be subscribed by the president or vice president, and the secretary, or other persons whom the cemetery authority may authorize, and shall be acknowledged so as to entitle it to be recorded.

**HISTORY:** Enacted Stats 1939 ch 60.**§ 8553. Completion of dedication**

Upon the filing of the map or plat and the filing of the declaration for record, the dedication is complete for all purposes and thereafter the property shall be held, occupied, and used exclusively for a cemetery and for cemetery purposes.

**HISTORY:** Enacted Stats 1939 ch 60.**§ 8554. Resurvey of reserved areas; Filing amended map**

When reservation is made in the declaration of dedication, any part or subdivision of the property so mapped and platted may, by order of the directors, be resurveyed and altered in shape and size and an amended map or plat filed, so long as such change does not disturb the interred remains of any deceased person.

**HISTORY:** Enacted Stats 1939 ch 60.



**§ 8555. Constructive notice of dedication**

The filed map or plat and the recorded declaration are constructive notice to all persons of the dedication of the property to cemetery purposes.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8556. Filing and indexing map; Fee**

The county recorder of the county in which a map or plat is filed shall index the map or plat in the general index giving reference to date of filing and number or to book and page so that it may easily be found. The recorder may bind the maps or plats in special books or in his books of maps of subdivisions. The fee for filing and indexing said map or plat shall be the same as provided for subdivided land under Section 27372 of the Government Code.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1957 ch 1865 § 2.

**§ 8557. Recording and indexing declaration**

The county recorder of the county in which a declaration of dedication is filed shall record it in the official records of his office and index it in the general index.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1957 ch 954 § 5, effective June 8, 1957.

**§ 8558. Subsequent events not affecting dedication or title**

After property is dedicated to cemetery purposes pursuant to this chapter, neither the dedication, nor the title of a plot owner, shall be affected by the dissolution of the cemetery authority, by nonuser on its part, by alienation of the property, by any incumbrances, by sale under execution, or otherwise except as provided in this chapter.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8559. Validity as perpetuity or restraint on alienation**

Dedication to cemetery purposes pursuant to this chapter is not invalid as violating any laws against perpetuities or the suspension of the power of alienation of title to or use of property, but is expressly permitted and shall be deemed to be in respect for the dead, a provision for the interment of human remains, and a duty to, and for the benefit of, the general public.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8560. Consent required for public thoroughfare or utility**

After dedication pursuant to this chapter, and as long as the property remains dedicated to cemetery purposes, no railroad, street, road, alley, pipe line, pole line, or other public thoroughfare or utility shall be laid out, through, over, or across any part of it without the consent of the cemetery authority owning and operating it, or of not less than two-thirds of the owners of interment plots.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8560.5. Consent required for opening or laying out streets, alleys, or roads**

No streets, alleys, or roads shall be opened or laid out within the boundary lines of any cemetery located in whole or in part within the lines of any city or city and county, where burials in the cemetery have been had within five years prior thereto, without the consent of the person owning and controlling the cemetery.

**HISTORY:** Added Stats 1953 ch 83 § 2.

**§ 8561. Exemptions accorded dedicated property**

All property dedicated pursuant to this chapter, including roads, alleys, and walks, is exempt from public improvement assessments and is exempt from enforcement of a money judgment against an individual owner of an interment plot to the extent provided in Section 704.200 of the Code of Civil Procedure.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1982 ch 497 § 123, operative July 1, 1983.

## ARTICLE 4 SALE OF PLOTS

### Section

- 8570. Selling and conveying
- 8571. Division of plots
- 8572. Execution of conveyances
- 8573. Sale of mausoleum crypt before receipt of certificate of occupancy
- 8574. License suspension or revocation; Reservation or escrow of assets

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8570. Selling and conveying

After filing the map or plat and recording the declaration of dedication, a cemetery authority may sell and convey plots subject to such rules and regulations as may be then in effect or thereafter adopted by the cemetery authority, and subject to such other and further limitations, conditions and restrictions as may be inserted in or made a part of the declaration of dedication by reference, or included in the instrument of conveyance of such plot.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 19.

### § 8571. Division of plots

(a) All plots, the use of which has been conveyed by deed or certificate of ownership as a separate plot, are indivisible except with the consent of the cemetery authority, or as provided by law.

(b) A plot, the use of which has been conveyed by deed or certificate of ownership as a family plot, thereby becomes inalienable and shall be held as a family plot of the owner.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 34 (SB 542).

### § 8572. Execution of conveyances

All conveyances made by a cemetery authority shall be signed by the president or the vice president, and the secretary, or by other officers authorized by the cemetery authority.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8573. Sale of mausoleum crypt before receipt of certificate of occupancy

Any cemetery authority or its agents who sell, offer for sale, contract to sell, or negotiate the sale of mausoleum crypts before the receipt of a certificate of occupancy as provided for in Sections 9591 and 9592 shall:

(a) Set forth in each contract a specific period of time within which the building or structure shall be completed.

(b) Set forth in each contract that the purchaser has the right of exchange for similar interment property and, in the event completion is not accomplished as set forth in (a) above, except upon the proclamation of a national emergency, guarantee the refund of the purchase price.

(c) Provide adequate financial provision for the construction cost of the mausoleum or the refund of the sales price to the purchaser until such time as a certificate of occupancy has been received.

**HISTORY:** Added Stats 1957 ch 1635 § 1.

### § 8574. License suspension or revocation; Reservation or escrow of assets

For a violation of any provision of Section 8573, the bureau may temporarily suspend or permanently revoke the license of any cemetery licensee and may order the reservation or escrowing of assets of the cemetery authority to the extent deemed necessary to satisfy the cost of construction of the structure or building.

**HISTORY:** Added Stats 1957 ch 1635 § 2. Amended Stats 2000 ch 568 § 250 (AB 2888).

## ARTICLE 5 REMOVAL OF DEDICATION

### Section

- 8580. Order and decree for removal; Notice of hearing and proof
- 8581. Publication and posting of notice

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8580. Order and decree for removal; Notice of hearing and proof

Property dedicated to cemetery purposes shall be held and used exclusively for cemetery purposes, unless and until the dedication is removed from all or any part of it by an order and decree of the superior court of

the county in which the property is situated, in a proceeding brought by the cemetery authority for that purpose and upon notice of hearing and proof satisfactory to the court:

(a) That no interments were made in or that all interments have been removed from that portion of the property from which dedication is sought to be removed.

(b) That the portion of the property from which dedication is sought to be removed is not being used for interment of human remains.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 1032 § 2.

### **§ 8581. Publication and posting of notice**

The notice of hearing provided in section 8580 shall be given by publication once a week for at least three consecutive weeks in a daily newspaper of general circulation in the county where said cemetery is located, and the posting of copies of the notice in three conspicuous places on that portion of the property from which the dedication is to be removed. Said notice shall:

(a) Describe the portion of the cemetery property sought to be removed from dedication.

(b) State that all remains have been removed or that no interments have been made in the portion of the cemetery property sought to be removed from dedication.

(c) Specify the time and place of the hearing.

**HISTORY:** Enacted Stats 1939 ch 60.

## **ARTICLE 6 TRANSFER OF CEMETERY OWNERSHIP**

Section

8585. Transfer of ownership

**HISTORY:** Added Stats 1976 ch 728 § 4.

### **§ 8585. Transfer of ownership**

(a) Whenever ownership of any cemetery authority is proposed to be transferred, the cemetery authority shall notify the Cemetery and Funeral Bureau in the Department of Consumer Affairs. A change in ownership, for purposes of this section, shall be deemed to occur whenever more than 50 percent of the equitable ownership of a cemetery authority is transferred in a single transaction or in a related series of transactions to one or more persons, associations, or corporations. The notice shall specify the address of the principal offices of the cemetery authority, and whether it will be changed or unchanged, and shall specify the name and address of each new owner and the stockholders. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation in the minimum amount of two thousand five hundred dollars (\$2,500) and the maximum amount of twenty-five thousand dollars (\$25,000). An action for a civil penalty under this provision may be brought by any public prosecutor in the name of the people of the State of California and the penalty imposed shall be enforceable as a civil judgment.

(b) Notice of the change of ownership shall be published in a newspaper of general circulation in the county in which the cemetery is located. The notice shall specify the address of the principal offices of the cemetery authority, whether changed or unchanged, and shall specify the name and address of each new owner and each stockholder owning more than 5 percent of the stock of each new owner.

(c) If there is a change of ownership pursuant to this section, the existing certificate of authority shall lapse and a new certificate of authority shall be obtained from the Cemetery and Funeral Bureau. No person shall purchase a cemetery, including purchase at a sale for delinquent taxes, or purchase more than 50 percent of the equitable ownership of a cemetery authority without having obtained a certificate of authority from the Cemetery and Funeral Bureau prior to the purchase of the cemetery or the ownership interest in the cemetery authority.

(d) Every cemetery authority shall post and continuously maintain at each public entrance to the cemetery a sign specifying the current name and address of the cemetery authority, a statement that the name and address of each director and officer of the cemetery authority may be obtained by contacting the Cemetery and Funeral Bureau, and shall have either of the following:

(1) The address of the Cemetery and Funeral Bureau.

(2) A statement that the address of the Cemetery and Funeral Bureau is available at the office of the cemetery.

(e) The signs shall be at least 16 inches high and 24 inches wide and shall be prominently mounted upright and vertical.

(f) The Cemetery and Funeral Bureau shall suspend the certificate of authority of any cemetery authority that is in violation of this section. No person shall obtain a certificate of authority under intentionally false or mislead-

ing statements and no person shall delegate authority of ownership under this section, except to another person licensed by the bureau. The certificate may be reinstated only upon compliance with these requirements.

**HISTORY:** Added Stats 1976 ch 728 § 4. Amended Stats 2000 ch 568 § 251 (AB 2888); Stats 2006 ch 124 § 1 (AB 2796), effective January 1, 2007; Stats 2008 ch 490 § 3 (AB 1911), effective January 1, 2009.

## CHAPTER 4 PROPERTY RIGHTS

### Article

1. General Provisions.
2. Joint Tenants.
3. Family Interment Plots.
4. Vested Right of Interment.
5. Voluntary Establishment of Inalienability.

**HISTORY:** Enacted Stats 1939 ch 60.

## ARTICLE 1 GENERAL PROVISIONS

### Section

8600. Presumption of sole ownership
8601. Right of spouse
8602. Divesting spouse's right; Marriage dissolution decree
8603. Inheritance
8604. Exemption from inheritance tax
8605. Affidavit to permit use

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8600. Presumption of sole ownership

All plots conveyed to individuals are presumed to be the sole and separate property of the owner named in the instrument of conveyance.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 20.

### § 8601. Right of spouse

The spouse of an owner of any plot containing more than one interment space has a vested right of interment of his remains in the plot and any person thereafter becoming the spouse of the owner has a vested right of interment of his remains in the plot if more than one interment space is unoccupied at the time the person becomes the spouse of the owner.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 21.

### § 8602. Divesting spouse's right; Marriage dissolution decree

No conveyance or other action of the owner without the written consent or joinder of the spouse of the owner divests the spouse of a vested right of interment, except that a final decree of divorce between them terminates the vested right of interment unless otherwise provided in the decree.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 22.

### § 8603. Inheritance

If no interment is made in an interment plot which has been transferred by deed or certificate of ownership to an individual owner, or if all remains previously interred are lawfully removed, upon the death of the owner, unless he has disposed of the plot either in his will by a specific devise or by a written declaration filed and recorded in the office of the cemetery authority, the plot descends to the heirs at law of the owner subject to the rights of interment of the decedent and his surviving spouse.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8604. Exemption from inheritance tax

Cemetery property passing to an individual by reason of the death of the owner is exempt from all inheritance taxes.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8605. Affidavit to permit use

An affidavit by a person having knowledge of the facts setting forth the fact of the death of the owner and the name of the person or persons entitled to the use of the plot pursuant to this chapter, is complete autho-

rization to the cemetery authority to permit the use of the unoccupied portions of the plot by the person entitled to the use of it.

**HISTORY:** Enacted Stats 1939 ch 60.

## ARTICLE 2 JOINT TENANTS

### Section

- 8625. Rights of joint tenants generally
- 8626. Vesting of title in survivor
- 8627. Exemption from proceedings to establish death
- 8628. Authorization to permit use of joint plot
- 8629. Designation of representative

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8625. Rights of joint tenants generally

In a conveyance to two or more persons as joint tenants each joint tenant has a vested right of interment in the plot conveyed.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8626. Vesting of title in survivor

Upon the death of a joint tenant, the title to the plot held in joint tenancy immediately vests in the survivors, subject to the vested right of interment of the remains of the deceased joint tenant.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8627. Exemption from proceedings to establish death

Cemetery property held in joint tenancy is exempt from the provisions of the Probate Code relating to proceedings for establishing the fact of death of a person whose death affects title to real property.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1983 ch 201 § 2.

### § 8628. Authorization to permit use of joint plot

An affidavit by any person having knowledge of the facts setting forth the fact of the death of one joint tenant and establishing the identity of the surviving joint tenants named in the deed to any plot, when filed with the cemetery authority operating the cemetery in which the plot is located, is complete authorization to the cemetery authority to permit the use of the unoccupied portion of the plot in accordance with the directions of the surviving joint tenants or their successors in interest.

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8629. Designation of representative

When there are several owners of a plot, or of rights of interment in it, they may designate one or more persons to represent the plot and file written notice of designation with the cemetery authority. In the absence of such notice or of written objection to its so doing, the cemetery authority is not liable to any owner for interring or permitting an interment in the plot upon the request or direction of any coowner of the plot.

**HISTORY:** Enacted Stats 1939 ch 60.

## ARTICLE 3 FAMILY INTERMENT PLOTS

### Section

- 8650. When plot becomes family property; Application of Probate Code where no disposition of plot made prior to owner's death; Seller notification to buyer
- 8650.5. Affidavit as authorization for cemetery authority to sell unoccupied portions of plot in absence of disposition by owner
- 8651. Interment rights
- 8652. Interment priorities in absence of surviving parent or child
- 8653. Waiver of right of interment

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8650. When plot becomes family property; Application of Probate Code where no disposition of plot made prior to owner's death; Seller notification to buyer

(a) Whenever an interment of the remains of a member or of a relative of a member of the family of the record owner or of the remains of the record owner is made in a plot transferred by deed or certificate of ownership to an individual owner, the plot shall become the family plot of the owner.



(b) If the owner dies without making disposition of the plot either in his or her will by a specific devise, or by a written declaration filed and recorded in the office of the cemetery authority, any unoccupied portions of the plot shall pass according to the laws of intestate succession as set forth in Sections 6400 to 6413, inclusive, of the Probate Code.

(c) As of January 1, 2002, any unoccupied portions of a family plot that became inalienable pursuant to this section as it read on December 31, 2001, shall no longer be inalienable and shall pass according to the laws of intestate succession as set forth in Sections 6400 to 6413, inclusive, of the Probate Code. No sale, transfer, or donation of any unused portion of a family plot made alienable under this subdivision shall be made unless all persons entitled to interment in the family plot under Sections 8651 and 8652 are deceased or have expressly waived in writing the right to be interred in the family plot.

(d) The seller of a cemetery plot shall notify the buyer that unused portions of a family plot may pass through intestate succession unless written disposition is made by the buyer and may be sold, transferred, or donated by the buyer's heirs. The seller shall notify the buyer of the effect of a future transfer, sale, or donation of the unused portion of a family plot on any endowment for care or maintenance of the plot that the buyer may purchase in conjunction with the purchase of the cemetery plot.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 2001 ch 436 § 35 (SB 542), ch 516 § 1 (AB 322).

#### **§ 8650.5. Affidavit as authorization for cemetery authority to sell unoccupied portions of plot in absence of disposition by owner**

An affidavit executed by a person who is the owner of the plot by virtue of the laws of intestate succession or by his or her attorney-in-fact, setting forth the fact of the death of the owner, the absence of a disposition of the plot by the owner in his or her will by a specific devise, the name of the person or persons who have rights to the plot under the intestate succession laws of the state, and the consent of that person or those persons to the sale of the plot by the cemetery authority, shall constitute complete authorization to the cemetery authority to permit any sale of the unoccupied portions of the plot.

**HISTORY:** Added Stats 2001 ch 516 § 2 (AB 322), effective January 1, 2002.

#### **§ 8651. Interment rights**

In a family plot one grave, niche or crypt may be used for the owner's interment; one for the owner's surviving spouse, if any, who by law has a vested right of interment in it; and in those remaining, if any, the parents and children of the deceased owner in order of death may be interred without the consent of any person claiming any interest in the plot.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 8652. Interment priorities in absence of surviving parent or child**

If no parent or child survives, the right of interment goes in the order of death first, to the spouse of any child of the record owner and second, in the order of death to the next heirs at law of the owner or the spouse of any heirs at law.

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 8653. Waiver of right of interment**

Any surviving spouse, parent, child or heir who has a right of interment in a family plot may waive such right in favor of any other relative, or spouse of a relative of either the deceased owner or of his spouse, and upon such waiver the remains of the person in whose favor the waiver is made may be interred in the plot.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1945 ch 848 § 1.

### **ARTICLE 4 VESTED RIGHT OF INTERMENT**

#### **Section**

8675. Waiver and termination

8676. Limitations

**HISTORY:** Enacted Stats 1939 ch 60.

#### **§ 8675. Waiver and termination**

A vested right of interment may be waived and is terminated upon the interment elsewhere of the remains of the person in whom vested.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8676. Limitations**

No vested right of interment gives to any person the right to have his remains interred in any interment space in which the remains of any deceased person having a prior vested right of interment have been interred, nor does it give any person the right to have the remains of more than one deceased person interred in a single interment space in violation of the rules and regulations of the cemetery in which the interment space is located.

**HISTORY:** Enacted Stats 1939 ch 60.

**ARTICLE 5 VOLUNTARY ESTABLISHMENT OF INALIENABILITY**

Section

8680. Conveyance or devise to cemetery authority

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8680. Conveyance or devise to cemetery authority**

A cemetery authority may take and hold any plot conveyed or devised to it by the plot owner so that it will be inalienable, and interments shall be restricted to the persons designated in the conveyance or devise.

**HISTORY:** Enacted Stats 1939 ch 60.

**CHAPTER 5 ENDOWMENT AND SPECIAL CARE**

Article

1. Care of Old Cemeteries.
2. Care of Active Cemeteries.
3. Investment of Endowment Funds.
4. Special Care.
5. Misrepresentation as to Endowment.
6. Penalties.

**HISTORY:** Enacted Stats 1939 ch 60. The heading of Chapter 5, which formerly read "Perpetual and Special Care," amended to read as above by Stats 1951 ch 176 § 4.

**ARTICLE 1 CARE OF OLD CEMETERIES**

Section

8700. Applicability of article
8701. Replatting and selling thoroughfares and parks as plots
8702. Application to court for alteration
8703. Applicants
8704. Verification and contents of petition
8705. Presenting plat and replat with petition
8706. Filing petition; Time for hearing
8707. Publishing notice of hearing
8708. Posting notice
8709. Form and contents of notice
8710. Hearing and determination
8711. Conveying new plots
8712. [Section repealed 1957.]
8713. Rights of owners of plots adjoining vacated areas
8714. Fixing damages for vacation
8715. Declaration of policy

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8700. Applicability of article**

In addition to those cemeteries to which this part does not apply, this article does not apply to abandoned cemeteries nor to cemeteries in which interments are prohibited.

**HISTORY:** Enacted Stats 1939 ch 60.

**§ 8701. Replatting and selling thoroughfares and parks as plots**

Whenever a majority of the plots in all or any part of a cemetery established prior to August 14, 1931, has been sold without the owner having made provision for the establishment of an adequate endowment care fund for its care, maintenance, and embellishment, the avenues, roadways, walks, driveways, alleys, streets and parks in it may be vacated or altered and replatted into plots which may be sold for interment purposes pursuant to this article.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 11.

### **§ 8702. Application to court for alteration**

Application for the alteration or vacation or replatting of all or any portion of an alley, street, avenue, walk, driveway, or park, for plots in the cemetery shall be made to the superior court in the county in which all or any portion of the property is situated.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8703. Applicants**

The application may be by the cemetery authority owning or operating the cemetery or if there is no cemetery authority operating the cemetery, by twenty or more plot owners.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8704. Verification and contents of petition**

The petition shall be verified and shall specify the facts of such ownership and shall state the reasons for the proposed change and what provisions have theretofore been made for the endowment care of the cemetery.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 12.

### **§ 8705. Presenting plat and replat with petition**

There shall be presented with the petition a plat of the cemetery and the proposed replat which shall clearly indicate the proposed changes.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8706. Filing petition; Time for hearing**

The petition shall be filed with the clerk of the superior court, and the clerk shall fix the time for hearing not less than thirty nor more than sixty days from the date of filing.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8707. Publishing notice of hearing**

Notice of the hearing shall be given by publishing a copy of the notice in a newspaper of general circulation near the cemetery in the county in which the property is situated, once a week for three consecutive weeks prior to the date of hearing.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8708. Posting notice**

Copies of the notice shall be posted in three conspicuous places within the cemetery.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8709. Form and contents of notice**

The notice shall:

- (a) Be addressed to all persons owning or interested in plots in the cemetery but need not name them.
- (b) Set forth in a general way the proposed changes.
- (c) Set forth the reasons stated in the petition for making the changes.
- (d) State the time when the hearing of the petition will be had.
- (e) State that a plat showing the proposed changes is on file with the clerk of the court.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8710. Hearing and determination**

At the time fixed for the hearing, the court shall hear and consider any evidence introduced in favor of and all objections to the changes and may allow the proposed changes and replat in whole or in part, or may order and allow modifications of the proposed changes. The hearing may be continued from time to time by order of court.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 23.

### **§ 8711. Conveying new plots**

The cemetery authority or other person directed by the court shall accept the newly created plots and shall sell and convey them only for interment purposes.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1957 ch 79 § 1.

## **§ 8712. [Section repealed 1957.]**

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 13. Repealed Stats 1957 ch 79 § 2. The repealed section related to the disposition of proceeds from the sale of plots.

## **§ 8713. Rights of owners of plots adjoining vacated areas**

The vacation of an alley, avenue, roadway, walk, driveway, street, or park adjacent to a privately owned plot does not vest any interest in the owner of the plot to the vacated portion; but the adjacent owner shall, for 10 days after the date of the order of vacation, have the right to purchase the new plots.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1957 ch 79 § 3.

## **§ 8714. Fixing damages for vacation**

In allowing any damages to any plot owner for such vacation, the court shall take into consideration the benefit to be received from endowment care.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 14.

## **§ 8715. Declaration of policy**

The provisions of this article are hereby declared to be a necessary exercise of the police power of the State in order to preserve and keep existing cemeteries as resting places for the dead and to preserve cemeteries from becoming unkept and places of reproach and desolation in the communities in which they are located. The taking of roadways, alleys, walks, avenues, driveways, streets and parks for the purposes and by the method in this section specified, regardless of the private character of the association or person applying therefor, is hereby declared an exercise of the right of eminent domain in behalf of the public health, safety, comfort, pleasure, protection, and historic instruction to present and future generations.

**HISTORY:** Enacted Stats 1939 ch 60.

# **ARTICLE 2 CARE OF ACTIVE CEMETERIES**

### Section

- 8725. Providing endowment care; Handling of funds
- 8726. Investment, use, and segregation of funds
- 8726.1. Endowment care fund reserves
- 8726.2. Conversion of endowment care fund from net income distribution method to unitrust distribution method; Conditions for approval; Annual review; Reports to specified legislative committee
- 8726.3. Limits on seizure of trust fund principal and income
- 8727. [Section repealed 1951.]
- 8728. Charge collected from plot purchasers
- 8729. Agreement for use of fund income
- 8730. Use of fund income under individual plot agreements
- 8731. Trustees of fund
- 8732. Proprietary interest of trustees
- 8732.1. Qualifications of trustee
- 8733. Limitation on trustees' compensation
- 8733.5. Bank or trust company as sole trustee
- 8734. Bond of trustees
- 8735. Contributions for fund
- 8736. Charitable purpose of fund and contributions; Nature of endowment care
- 8737. Validity of payment or contribution
- 8738. Endowment care cemetery [Repealed effective January 1, 2024]
- 8738. Endowment care cemetery [Operative January 1, 2024]
- 8738.1. Additional endowment care fund deposit before disposing of plot
- 8738.2. Segregation of endowment care fund and its records; Prohibited commission
- 8739. "Nonendowment care cemetery"
- 8739.1. Endowment care cemetery established or excluded from exemption under statute
- 8740. Endowment care cemetery with nonendowment care sections
- 8741. Posting endowment care cemetery sign
- 8742. [Section repealed 1951.]
- 8743. Posting nonendowment care sign
- 8744. Heading nonendowment care on contracts, statements, and publications
- 8745. Revision and verification of signs and report
- 8746. Misdemeanors
- 8747. [Section renumbered 1982.]
- 8747.5. Maintenance and examination of records
- 8748. Fund merger and declaration of trust

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8725. Providing endowment care; Handling of funds**

A cemetery authority that maintains a cemetery may place its cemetery under endowment care and establish, maintain, and operate an endowment care fund. Endowment care and special care funds consisting of trust funds created by irrevocable trust agreements may be commingled for investment and the net income therefrom shall be divided between the endowment care and special care funds in the proportion that each fund contributed to the principal sum invested. Special care funds derived from trusts created by a revocable agreement shall not be commingled for investment and shall be accounted for separately from all other funds. The funds may be held in the name of the cemetery authority, its directors, or in the name of the trustees appointed by the cemetery authority.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339 § 24; Stats 1951 ch 176 § 15; Stats 1997 ch 142 § 8 (AB 603); Stats 2017 ch 750 § 2 (AB 926), effective January 1, 2018.

### **§ 8726. Investment, use, and segregation of funds**

(a) The principal of all funds for endowment care shall be invested and the income only may be used for the care, maintenance, and embellishment of the cemetery in accordance with the provisions of law and the resolutions, bylaws, rules, and regulations or other actions or instruments of the cemetery authority and for no other purpose. Endowment and special care funds shall be maintained separate and distinct from all other funds and the trustees shall keep separate records thereof.

(b) For purposes of this article, the following definitions shall apply:

(1) "Income" means distribution under either the net income distribution method or the unitrust distribution method.

(2) "Unitrust distribution method" means an income distribution method where the net income amount, known as the unitrust amount, is no more than 5 percent of the fair market value of the trust assets.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 16; Stats 1957 ch 1635 § 3; Stats 2017 ch 750 § 3 (AB 926), effective January 1, 2018.

#### **§ 8726.1. Endowment care fund reserves**

(a) If a cemetery authority establishes an endowment care fund, the fund shall be subject to a net income distribution method that requires all of the following:

(1) The trustee of the endowment care fund shall create a reserve from which principal losses may be replaced by setting aside a reasonable percentage of the income from the fund.

(2) The trustee may also set aside, out of income or net capital gains from investments, reserves for future maintenance, repair, replacement, or restoration of property or embellishments in the cemetery that may be necessary or desirable as a result of wear, deterioration, accident, damage, or destruction.

(3) The total amount of these reserves for maintenance, repair, and restoration shall not at any time exceed 10 percent of the endowment care fund.

(4) As used in this section, "net capital gains" means the amount by which cumulative realized capital gains since the establishment of the endowment care fund exceed the sum of cumulative realized capital losses since the establishment of the endowment care fund and capital gains previously set aside in reserve.

(5) Additions to the reserve in any year from net capital gains shall not exceed one-half the difference between the capital gains and the capital losses during the year.

(6) Net capital gains not set aside in reserve in any given year shall become a part of the principal of the endowment care fund.

(b) Notwithstanding subdivision (a), a cemetery authority may convert its endowment care fund from a net income distribution method to a unitrust distribution method if it obtains prior approval from the Cemetery and Funeral Bureau pursuant to Section 8726.2.

**HISTORY:** Added Stats 1951 ch 176 § 17. Amended Stats 1955 ch 595 § 6, ch 1047 § 1; Stats 2017 ch 750 § 4 (AB 926), effective January 1, 2018.

#### **§ 8726.2. Conversion of endowment care fund from net income distribution method to unitrust distribution method; Conditions for approval; Annual review; Reports to specified legislative committee**

(a) On or after January 1, 2021, a cemetery authority, its board of trustees, or its corporate trustee may apply to the Cemetery and Funeral Bureau to convert its endowment care fund from a net income distribution method to a unitrust distribution method.

(b) The bureau shall approve the application described in subdivision (a) only if all of the following conditions are met:



(1) The cemetery authority, its board of trustees, or its corporate trustee provides the investment objectives of the trust and those objectives promote the mutual goals of (A) growing the principal assets to sufficiently cover the cost of future and ongoing care and maintenance of the cemetery and (B) generating income to support the cemetery, as described in Section 8726.

(2) Evidence is provided that the cemetery authority, its board of trustees, or its corporate trustee will invest and manage the trust under the prudent investor rule, as described in Article 2.5 (commencing with Section 16045) of Chapter 1 of Part 4 of Division 9 of the Probate Code, including, but not limited to, the requirements of Section 16050 of the Probate Code.

(3) The cemetery authority, its board of trustees, or its corporate trustee demonstrates sufficient knowledge and expertise in investing and managing an endowment care fund.

(4) The unitrust amount is no more than 5 percent of the average net fair market value of the endowment care fund.

(5) A reserve is created for future maintenance, repair, restoration of property, or embellishments in the cemetery for use when the endowment fund has inadequate funds for full distribution, as described in subparagraph (C) of paragraph (6). The cemetery authority, its board of trustees, or its corporate trustee may set aside a portion of the unitrust amount for the reserve.

(6)(A) The distribution of the unitrust amount may be made to the cemetery authority on a monthly, quarterly, semiannual, or annual basis, unless the endowment care fund has inadequate funds for full distribution.

(B) An endowment care fund has inadequate funds for full distribution if either of the following events occur:

(i) The net fair market value of the endowment care fund, after the distribution, is less than 80 percent of the aggregate fair market value of the endowment care fund as of the end of the immediate preceding fiscal year.

(ii) The endowment care fund is less than the cumulative total of all principal contributions to the fund since inception.

(C)(i) If the endowment care fund has inadequate funds for full distribution, the distribution shall be limited to the lesser of net income distribution or an amount no more than a unitrust distribution of 1.5 percent of the average net fair market value of the assets, and the fees and expenses associated with the management of the fund shall be paid by the cemetery authority.

(ii) The cemetery authority, its board of trustees, or its corporate trustee may draw from the reserve described in paragraph (5) only during a fiscal year where there are inadequate funds for full distribution. An amount drawn from the reserve during that fiscal year shall be the lesser of the difference between the unitrust amount described in paragraph (4) and the limited distribution amount described in clause (i), or one-third of the total amount of the reserve.

(7)(A) Notwithstanding Section 8733 or 8733.5, the compensation of the trustee shall be reasonable and shall meet the following conditions:

(i) If the net fair market value of the endowment care fund as of the end of the immediately preceding fiscal year, as of the last trading day, is less than five hundred thousand dollars (\$500,000), the annual compensation of the trustee shall not exceed three thousand five hundred dollars (\$3,500).

(ii) If the net fair market value of the endowment care fund as of the end of the immediately preceding fiscal year, as of the last trading day, is five hundred thousand dollars (\$500,000) or more, the annual compensation of the trustee shall not exceed:

(I) 0.8 percent of the first one million dollars (\$1,000,000).

(II) 0.6 percent of the next four million dollars (\$4,000,000).

(III) 0.5 percent of the next five million dollars (\$5,000,000).

(IV) 0.15 percent of all amounts above ten million dollars (\$10,000,000).

(B) The payment of the compensation of the trustee as set forth in subparagraph (A) shall be determined by a contractually prescribed schedule that is annual, semiannual, quarterly, or monthly with a schedule adopted for a period of no less than one year, and with relation to the net fair market value of the endowment care fund as of the end of the scheduled period, and the calculation of those fees as a percentage of that value shall be adjusted for that calculation.

(C) Nothing in this paragraph requires the payment of compensation to the trustee in a fiscal year.

(8) The cemetery authority has submitted all annual reports, pursuant to Section 7612.6 of the Business and Professions Code, for the previous five consecutive years.

(c) The bureau shall deny a cemetery authority's application if the bureau has found any of the conditions described in subdivisions (a) to (f), inclusive, of Section 7613.9 of the Business and Professions Code.

(d) To assist the bureau in making its determination, the cemetery authority, its board of trustees, or its corporate trustee shall provide all relevant trust documents, including a proposed trust instrument, if available. If

relevant trust documents become available after the bureau makes a determination, the cemetery authority, its board of trustees, or its corporate trustee shall provide it to the bureau.

(e)(1) The bureau shall review on an annual basis whether a cemetery authority continues to meet the conditions of approval, described in subdivision (b), for the use of the unitrust distribution method.

(2) If the net fair market value of an endowment using the unitrust distribution method as of the end of the immediately preceding fiscal year falls to lower than five hundred thousand dollars (\$500,000), the bureau, in its review, shall consider the fees and expenses associated with the management of the fund.

(3) If a cemetery authority is determined not to meet the original conditions of approval described in subdivision (b), or has failed to file an annual report pursuant to Section 7612.6 of the Business and Professions Code, the cemetery authority may be required to revert to the use of the net income distribution method.

(f) The bureau may adopt rules to administer this section and ensure compliance, including, but not limited to, reporting requirements.

(g) The bureau shall evaluate the effectiveness of this section and report at its next two hearings before the Joint Sunset Review Oversight Hearings of the Assembly Committee on Business and Professions and Senate Committee on Business, Professions and Economic Development that occurs after January 1, 2018.

(h) For the purpose of this section, the following words have the following meanings:

(1) "Average net fair market value" means the net fair market value of the assets in the endowment care fund as of the last trading day for each of the three preceding fiscal years. Investment adviser fees and other operating expenses shall be deducted in determining the net fair market value.

(2) "Compensation of the trustee" means the total annual sum of all compensation paid to all trustees of an endowment care fund and to all agents and employees of those trustees.

(3) "Net fair market value" means the fair market value of the endowment care fund at a specified point in time after deducting investment adviser fees and other operating expenses.

(i) Nothing in this section relieves the trustee of the obligation to comply with the prudent investor rule, as described in Article 2.5 (commencing with Section 16045) of Chapter 1 of Part 4 of Division 9 of the Probate Code, including, but not limited to, Section 16050 of the Probate Code.

**HISTORY:** Added Stats 2017 ch 750 § 5 (AB 926), effective January 1, 2018. Amended Stats 2019 ch 309 § 1 (AB 795), effective January 1, 2020; Stats 2021 ch 376 § 37 (AB 830), effective January 1, 2022.

### **§ 8726.3. Limits on seizure of trust fund principal and income**

(a) Notwithstanding any other law, the principal of the trust fund of a cemetery and all income from it shall be exempt from seizure, under any writ, mandate, or process, including bankruptcy, by any private entity, including, but not limited to, creditors of the beneficiaries, the trustee, or any person owning, operating, managing, conducting, or providing perpetual or endowed care to or for the cemetery for which the trust fund was created. In the event of seizure by any public entity, the principal and income of the trust fund shall only be available for the care, maintenance, and embellishment of that cemetery.

(b) If ownership of a cemetery authority is transferred pursuant to Section 8585, the principal and income of the trust fund shall only be available for the care, maintenance, and embellishment of that cemetery property in accordance with the provisions of law and the resolutions, bylaws, rules, and regulations or other actions or instruments of the cemetery authority.

**HISTORY:** Added Stats 2019 ch 309 § 2 (AB 795), effective January 1, 2020.

### **§ 8727. [Section repealed 1951.]**

**HISTORY:** Enacted Stats 1939 ch 60. Repealed Stats 1951 ch 176 § 18. See H & S C § 8726.

### **§ 8728. Charge collected from plot purchasers**

The cemetery authority may from time to time adopt plans for the general care, maintenance, and embellishment of its cemetery, and charge and collect from all subsequent purchasers of plots such reasonable sum as, in the judgment of the cemetery authority, will aggregate a fund, the reasonable income from which will provide care, maintenance and embellishment.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 19.

### **§ 8729. Agreement for use of fund income**

Upon payment of the purchase price and the amount fixed as a proportionate contribution for endowment care, there may be included in the deed of conveyance or by separate instrument an agreement to use the income from such endowment care fund for the care, maintenance, and embellishment in accordance with

the plan adopted, for the cemetery and its appurtenances to the proportionate extent the income received by the cemetery authority from the contribution will permit.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 20.

### **§ 8730. Use of fund income under individual plot agreements**

Upon the application of an owner of any plot, and upon the payment by him of the amount fixed as a reasonable and proportionate contribution for endowment care a cemetery authority may enter into an agreement with him to use the income from such fund for the care of his plot and its appurtenances.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 21.

### **§ 8731. Trustees of fund**

(a) The cemetery authority may appoint a board of trustees of not less than three in number as trustees of its endowment care fund. The members of the board of trustees shall hold office subject to the direction of the cemetery authority.

(b) If within 30 days after notice of nonreceipt by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, the cemetery authority fails to file the report required by Section 7612.6 of the Business and Professions Code, or if the report is materially not in compliance with law or the endowment care fund is materially not in compliance with law, the cemetery authority may be required to appoint as sole trustee of its endowment care fund under Section 8733.5, any bank or trust company qualified under the provisions of the Banking Law (Division 1 (commencing with Section 99) of the Financial Code) to engage in the trust business. That requirement may be imposed by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, provided that the cemetery authority has received written notice of the alleged violation and has been given the opportunity to correct the alleged violation, and there has been a finding of a material violation in an administrative hearing.

(c)(1) Each member of the board of trustees shall provide signatory acknowledgment of understanding of the role of a trustee in managing trust funds in the following areas:

(A) Trustee duties, powers, and liabilities as contained in Part 4 (commencing with Section 16000) of Division 9 of the Probate Code.

(B) Reporting and regulatory requirements contained in Article 1.5 (commencing with Section 7611) of Chapter 12 of Division 3 of the Business and Professions Code.

(C) Provisions related to the care of active cemeteries contained in Chapter 5 (commencing with Section 8700) of Part 3 of Division 8.

(2) The signatory acknowledgment shall be retained by the cemetery authority during the duration of the trustee's term of office.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 22; Stats 1996 ch 370 § 1 (AB 2233); Stats 1997 ch 142 § 9 (AB 603); Stats 2000 ch 568 § 252 (AB 2888); Stats 2018 ch 571 § 33 (SB 1480), effective January 1, 2019.

### **§ 8732. Proprietary interest of trustees**

Not more than one member of the board of trustees of an endowment care fund may have a proprietary interest in the cemetery authority.

**HISTORY:** Added Stats 1976 ch 729 § 6.

#### **§ 8732.1. Qualifications of trustee**

Each individual trustee of an endowment care fund shall be a resident of this State, and a corporate trustee shall be qualified to do business in this State.

**HISTORY:** Added Stats 1955 ch 595 § 7.

### **§ 8733. Limitation on trustees' compensation**

No sum in excess of 5 percent of the net income derived from an endowment care fund, or special care fund, or both, in any year shall be paid as compensation to the board of trustees for its services as trustee. This amount shall be the total compensation from the fund to be paid to a trustee for services. For purposes of this section, "net income" means the amount of income remaining after reasonable administrative expenses, including bookkeeping, postage, taxes, and other costs directly related to generating income to the trust fund, have been deducted from the gross income derived from the fund.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1997 ch 142 § 10 (AB 603).

**§ 8733.5. Bank or trust company as sole trustee**

In lieu of the appointment of a board of trustees of its endowment care fund, any cemetery authority may appoint as sole trustee of its endowment care fund any bank or trust company qualified under the provisions of the Banking Law (Division 1 (commencing with Section 99) of the Financial Code) to engage in the trust business. If a cemetery authority appoints a bank or trust company, the sum paid to the bank or trust company may exceed 5 percent of the net income derived from the endowment care fund, or special care fund, or both, notwithstanding Section 8733.

**HISTORY:** Added Stats 1941 ch 176 § 1. Amended Stats 1951 ch 176 § 24; Stats 1996 ch 370 § 2 (AB 2233); Stats 1997 ch 142 § 11 (AB 603).

**§ 8734. Bond of trustees**

(a) Except as provided in subdivisions (b), (c), and (d), the board of trustees or corporate trustee of an endowment care fund or one or more special care funds shall file a fidelity bond executed by an admitted surety insurer with the Cemetery and Funeral Bureau in the amount of fifty thousand dollars (\$50,000), guaranteeing payment to each such fund of any monetary loss incurred by the fund occasioned by acts of fraud or dishonesty by the trustees or trustee. The board of trustees or corporate trustee of both an endowment care fund and one or more special care funds need file only one such bond.

(b) Any cemetery authority which has a fidelity bond on all officers and employees issued by an admitted surety insurer and which by its terms would cover any acts of fraud or dishonesty by the trustees or corporate trustee of its endowment and special care funds need not file a separate bond with the Cemetery and Funeral Bureau as provided in subdivision (a), but shall submit to the Cemetery and Funeral Bureau satisfactory evidence of such a fidelity bond. Such fidelity bond, except as provided in subdivision (c), shall provide at least fifty thousand dollars (\$50,000) specifically designated to guarantee payment of any monetary loss incurred by the endowment care or special care funds of the cemetery authority occasioned by any acts of fraud or dishonesty by the board of trustees or corporate trustee thereof.

(c) Upon application, the Cemetery and Funeral Bureau may reduce the amount of the bond required pursuant to this section if moneys in the endowment care fund and special care funds administered by the applicant board of trustees or corporate trustee are substantially less than fifty thousand dollars (\$50,000). In such cases, the Cemetery and Funeral Bureau may permit filing of a bond pursuant to subdivision (a) or (b) which, while the bond is on file, is not less than the aggregate amount of all moneys in the endowment care fund and special care funds administered by the applicant. If the Cemetery and Funeral Bureau permits exceptions pursuant to this subdivision, it shall adopt procedures to assure that affected bonds do not fall below such amount.

(d) The trustees or corporate trustee of an endowment care fund or special care fund shall take no action respecting trust funds unless there is on file with the bureau a bond as required by this section. The Cemetery and Funeral Bureau may suspend the certificate of authority of any cemetery authority having endowment or special care funds with respect to which there is no bond on file with the bureau as required by this section, or whenever such a bond falls below the amount required by this section.

(e) Any state or national bank authorized to engage in the trust business pursuant to Division 1 (commencing with Section 99) of the Financial Code shall be exempt from the requirements of this section.

**HISTORY:** Added Stats 1976 ch 524 § 1. Amended Stats 1977 ch 262 § 1, effective July 8, 1977; Stats 1982 ch 517 § 273; Stats 2000 ch 568 § 253 (AB 2888).

**§ 8735. Contributions for fund**

A cemetery authority which has established an endowment care fund may take, receive, and hold as a part of or incident to the fund any property, real, personal or mixed, bequeathed, devised, granted, given or otherwise contributed to it for its endowment care fund.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 26.

**§ 8736. Charitable purpose of fund and contributions; Nature of endowment care**

The endowment care fund and all payments or contributions to it are hereby expressly permitted as and for charitable and eleemosynary purposes. Endowment care is a provision for the discharge of a duty due from the persons contributing to the persons interred and to be interred in the cemetery and a provision for the benefit and protection of the public by preserving and keeping cemeteries from becoming unkept and places of reproach and desolation in the communities in which they are situated.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 27.

**§ 8737. Validity of payment or contribution**

No payment, gift, grant, bequest, or other contribution for general endowment care is invalid by reason of



any indefiniteness or uncertainty of the persons designated as beneficiaries, nor is the fund or any contribution to it invalid as violating any law against perpetuities or the suspension of the power of alienation of title to property.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 28.

### **§ 8738. Endowment care cemetery [Repealed effective January 1, 2024]**

(a) For purposes of this section, “net price” means the retail price less any discounts the cemetery provides to consumers for the purchase of an interment space.

(b) An endowment care cemetery is one which has deposited in its endowment care fund the minimum amounts heretofore required by law and shall hereafter have deposited in its endowment care fund at the time of or not later than completion of the initial sale not less than the following amounts for plots sold or disposed of:

(1) Either 6 percent of net price or two hundred dollars (\$200), whichever is greater, with a required deposit not to exceed six thousand dollars (\$6,000), for each grave.

(2) Either 6 percent of net price or one hundred dollars (\$100), whichever is greater, with a required deposit not to exceed six thousand dollars (\$6,000), for each niche.

(3) Either 6 percent of net price or two hundred dollars (\$200), whichever is greater, with a required deposit not to exceed six thousand dollars (\$6,000), for each crypt.

(4) Either 6 percent of net price or one hundred dollars (\$100), whichever is greater, for the cremated or hydrolyzed remains of each deceased person scattered in the cemetery at a garden or designated open area that is not an interment site subject to paragraph (1).

(c) This section shall become operative on January 1, 2023.

(d) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

**HISTORY:** Added Stats 2021 ch 442 § 6 (AB 651), effective January 1, 2022, operative January 1, 2023, repealed January 1, 2024.

### **§ 8738. Endowment care cemetery [Operative January 1, 2024]**

(a) For purposes of this section, “net price” means the retail price less any discounts the cemetery provides to consumers for the purchase of an interment space.

(b) An endowment care cemetery is one which has deposited in its endowment care fund the minimum amounts heretofore required by law and shall hereafter have deposited in its endowment care fund at the time of or not later than completion of the initial sale not less than the following amounts for plots sold or disposed of:

(1) Either 10 percent of net price or two hundred fifty dollars (\$250), whichever is greater, with a required deposit not to exceed ten thousand dollars (\$10,000), for each grave.

(2) Either 10 percent of net price or one hundred fifty dollars (\$150), whichever is greater, with a required deposit not to exceed ten thousand dollars (\$10,000), for each niche.

(3) Either 10 percent of net price or two hundred fifty dollars (\$250), whichever is greater, with a required deposit not to exceed ten thousand dollars (\$10,000), for each crypt.

(4) Either 10 percent of net price or one hundred fifty dollars (\$150), whichever is greater, for the cremated or hydrolyzed remains of each deceased person scattered in the cemetery at a garden or designated open area that is not an interment site subject to paragraph (1).

(c) This section shall become operative on January 1, 2024.

**HISTORY:** Added Stats 2021 ch 442 § 7 (AB 651), effective January 1, 2022, operative January 1, 2024.

#### **§ 8738.1. Additional endowment care fund deposit before disposing of plot**

In addition to the requirements of Section 8738 any endowment care cemetery hereafter established shall also have deposited in its endowment care fund the additional sum of twenty-five thousand dollars (\$25,000), or thirty-five thousand dollars (\$35,000) if established on or after January 1, 1977, before disposing of any plot or making any sale thereof.

**HISTORY:** Added Stats 1951 ch 176 § 30. Amended Stats 1976 ch 525 § 4.

#### **§ 8738.2. Segregation of endowment care fund and its records; Prohibited commission**

The endowment care fund under the provisions of this code shall be kept separate and apart from all other cemetery funds. Separate records and books shall be kept of the endowment care fund. The amount to be deposited in the endowment care fund shall be separately shown on the original purchase agreement and a



copy delivered to the purchaser. In the sale of cemetery property, no commission shall be paid a broker or salesman on the amount deposited by the purchaser in the fund.

**HISTORY:** Added Stats 1955 ch 595 § 8.

### **§ 8739. “Nonendowment care cemetery”**

A nonendowment care cemetery is one that does not have deposited in an endowment care fund the minimum amounts required by law.

**HISTORY:** Added Stats 1939 ch 60 § 26. Amended Stats 1951 ch 176 § 31.

### **§ 8739.1. Endowment care cemetery established or excluded from exemption under statute**

Any cemetery established, on or after September 7, 1955, or excluded from the exemption provided in subdivision (c) of Section 8250 by virtue of paragraph (2) of such subdivision, shall be an endowment care cemetery.

**HISTORY:** Added Stats 1955 ch 595 § 9. Amended Stats 1972 ch 1269 § 3.

### **§ 8740. Endowment care cemetery with nonendowment care sections**

A cemetery which otherwise complies with Section 8738 may be designated an endowment care cemetery even though it contains a small section which may be sold without endowment care, if the section is separately set off from the remainder of the cemetery and if signs are kept prominently placed around the section designating the same as a “nonendowment care section” in legible black lettering at least four inches high. There shall be printed at the head of all contracts, agreements, statements, receipts and certificates of ownership or deeds referring to plots in the section the phrase “nonendowment care” in lettering of a size and style to be approved by the Cemetery and Funeral Bureau.

No new “nonendowment care” sections shall be established, nor an existing one enlarged in an endowment care cemetery.

**HISTORY:** Added Stats 1939 ch 60 § 28. Amended Stats 1951 ch 176 § 32; Stats 1955 ch 595 § 10; Stats 2000 ch 568 § 254 (AB 2888).

### **§ 8741. Posting endowment care cemetery sign**

Each endowment care cemetery shall post in a conspicuous place at or near the entrance of the cemetery and at its administration building and readily accessible to the public, a legible sign that shall contain the following information in the order and manner set forth below:

- (a) A heading containing the words “endowment care”—which shall appear in a minimum of one-inch letters.
- (b) The statement, “This is an endowment care interment property.”

**HISTORY:** Added Stats 1939 ch 60 § 29. Amended Stats 1951 ch 176 § 33; Stats 1957 ch 1635 § 5; Stats 1959 ch 598 § 4; Stats 2006 ch 124 § 2 (AB 2796), effective January 1, 2007.

### **§ 8742. [Section repealed 1951.]**

**HISTORY:** Added Stats 1939 ch 60 § 30. Repealed Stats 1951 ch 176 § 34. The repealed section related to reports by perpetual care cemeteries.

### **§ 8743. Posting nonendowment care sign**

Each nonendowment care cemetery or the Cemetery and Funeral Bureau shall post in a conspicuous place in the office or offices where sales are conducted and in a conspicuous place at or near the entrance of the cemetery or its administration building and readily accessible to the public, a legible sign with lettering of a size and style to be approved by the Cemetery and Funeral Bureau that shall contain the following information in the order and manner set forth below:

- (a) A heading containing the words “nonendowment care.”
- (b) This is a nonendowment care interment property.

**HISTORY:** Added Stats 1939 ch 60 § 31. Amended Stats 1951 ch 176 § 35; Stats 2000 ch 568 § 255 (AB 2888).

#### **§ 8744. Heading nonendowment care on contracts, statements, and publications**

There shall be printed at the head of all contracts, agreements, statements, receipts, literature and other publications of nonendowment care cemeteries the following form:

“This institution is operated as a ‘nonendowment care’ interment property.”

The phrase “nonendowment care” shall be of a size and style to be approved by the Cemetery and Funeral Bureau.

**HISTORY:** Added Stats 1939 ch 60 § 32. Amended Stats 1951 ch 176 § 36; Stats 2000 ch 568 § 256 (AB 2888).

#### **§ 8745. Revision and verification of signs and report**

All the information appearing on the signs and report filed in the cemetery office shall be revised annually and verified by the president and secretary, or two officers authorized by the cemetery authority.

**HISTORY:** Added Stats 1939 ch 60 § 33.

#### **§ 8746. Misdemeanors**

Any person, partnership, corporation, association, or his, her, or its agents or representatives, who shall violate any of the provisions of this article, except as provided in Section 8785, or make any willful or false statement appearing on a sign, contract, agreement, receipt, statement, literature or other publication shall be guilty of a misdemeanor.

**HISTORY:** Added Stats 1939 ch 60 § 34. Amended Stats 1982 ch 897 § 1.

#### **§ 8747. [Section renumbered 1982.]**

**HISTORY:** Added Stats 1951 ch 176 § 37. Renumbered H & S C § 8781 by Stats 1982 ch 897 § 2.

#### **§ 8747.5. Maintenance and examination of records**

Each cemetery shall at all times maintain and keep within the State of California all books, accounts, records, cash and evidences of investments of its general and special care funds. They shall be readily available for inspection and examination by the Cemetery and Funeral Bureau in accordance with the provisions of the Business and Professions Code.

**HISTORY:** Added Stats 1955 ch 595 § 11. Amended Stats 2000 ch 568 § 257 (AB 2888).

#### **§ 8748. Fund merger and declaration of trust**

Where an endowment care mausoleum or mausoleum-columbarium is operated within an endowment care cemetery and the cemetery corporations or cemetery authorities owning or operating each merge and consolidate into one cemetery authority or corporation, the endowment care funds established by each may be consolidated and merged into one endowment care fund. Such merger shall be accomplished by the execution of a declaration of trust by the successor cemetery authority or corporation, which declaration shall provide:

- (a) That the assets of each endowment care fund shall be merged and consolidated into one endowment care fund which shall be held and administered by the directors of the successor cemetery authority or the trustees appointed by them for the care, maintenance, and embellishment of both cemeteries in accordance with the provisions of this code.
- (b) That the income from such endowment care funds shall be used for the general care, maintenance, and embellishment for the cemetery as a whole, or, if the income from such consolidated fund is to be divided between such mausoleum or mausoleum-columbarium and cemetery, the proportion or manner in which it is to be divided.
- (c) That it accepts and will administer all special care funds for the purpose for which they were established and in accordance with the provisions of this code.

The declaration of trust shall be approved by all of the trustees of each endowment care fund and by the directors of the cemetery authority or corporation appointing such trustees, which approval shall be endorsed upon such declaration of trust. The declaration of trust shall not be effective unless and until approved by the Cemetery and Funeral Bureau.

An executed copy of such declaration of trust so approved shall be filed with the Cemetery and Funeral Bureau and in the office of the cemetery authority or corporation owning or operating such cemetery, where it shall be available for inspection by any owner of property therein.

Upon approval of the declaration of trust by the Cemetery and Funeral Bureau, the assets and liabilities of such endowment care funds shall be deemed merged and consolidated into one endowment care fund, and the trustees of, or appointed by, the cemetery authority or corporation handling such funds shall be immediately vested with the title to all of the assets and subject to all of the liabilities thereof. The trustees of the endowment care funds which have been thus merged or consolidated shall be relieved of any obligations or duties arising subsequent to such merger or consolidation.

**HISTORY:** Added Stats 1953 ch 1161 § 2. Amended Stats 2000 ch 568 § 258 (AB 2888).

## ARTICLE 3 INVESTMENT OF ENDOWMENT FUNDS

### Section

- 8750. Use of funds
- 8751. Enumerated authorized investments
- 8751.1. Authorized investments for private cemeteries

**HISTORY:** Enacted Stats 1939 ch 60. The heading of Article 3, which formerly read "Investment of Perpetual Care Funds," amended to read as above by Stats 1951 ch 176 § 5.

### § 8750. Use of funds

Endowment care funds shall not be used for any purpose other than to provide through income only for the reserves authorized by law and for the endowment care of the cemetery in accordance with the resolutions, by-laws, rules and regulations or other actions or instruments of the cemetery authority.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 38.

### § 8751. Enumerated authorized investments

The funds shall be invested and reinvested, and kept invested in:

- (a) Bonds of the United States or this state, or of any county, city and county, or city in this state.
- (b) Bonds legal for investment for savings banks in this state.
- (c) First mortgages or first trust deeds on improved real estate.
- (d) Income producing improved real estate in any city or city and county in this state.
- (e) Investment certificates in any savings and loan association organized, existing and doing business under the laws of this state.
- (f) Investments of the type enumerated for domestic incorporated insurers in Article 3, Chapter 2, Part 2, of Division 1 of the Insurance Code of this state.
- (g) By deposit in a bank which is insured by the Federal Deposit Insurance Corporation.
- (h) Shares of a duly chartered and insured federal savings and loan association.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1939 ch 339; Stats 1977 ch 496 § 1.

### § 8751.1. Authorized investments for private cemeteries

In addition to the requirements of Section 8751, the funds may be invested and reinvested and kept invested in investments of the type and in the manner as provided in Part 4 (commencing with Section 16000) of Division 9 of the Probate Code.

**HISTORY:** Added Stats 1951 ch 176 § 39. Amended Stats 1989 ch 1104 § 39.5; Stats 1990 ch 79 § 12 (AB 759), operative July 1, 1991.

## ARTICLE 4 SPECIAL CARE

### Section

- 8775. Purposes for which trusts may be accepted
- 8776. Charitable purpose and validity of payments, contributions, and funds
- 8777. Custody and investment
- 8778. Permissible investments
- 8778.5. Administration of special care trust fund; Annual fee; Punishment for violation
- 8779. Preexisting investments
- 8779.5. Management of trusts

**HISTORY:** Enacted Stats 1939 ch 60.

### § 8775. Purposes for which trusts may be accepted

A cemetery authority which has established an endowment care fund may also take and hold any property

bequeathed, granted, or given to it in trust to apply the principal, or proceeds, or income to either or all of the following purposes:

- (a) Improvement or embellishment of all or any part of the cemetery or any lot in it.
- (b) Erection, renewal, repair, or preservation of any monument, fence, building, or other structure in the cemetery.
- (c) Planting or cultivation of trees, shrubs, or plants in or around any part of the cemetery.
- (d) Special care or ornamenting of any part of any plot, section, or building in the cemetery.
- (e) Any purpose or use not inconsistent with the purpose for which the cemetery was established or is maintained.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 40.

### **§ 8776. Charitable purpose and validity of payments, contributions, and funds**

The sums paid in or contributed to the fund authorized by this article are hereby expressly permitted as and for a charitable and eleemosynary purpose. Such contributions are a provision for the discharge of a duty due from the persons contributing to the person or persons interred or to be interred in the cemetery and likewise a provision for the benefit and protection of the public by preserving, beautifying, and keeping cemeteries from becoming unkept and places of reproach and desolation in the communities in which they are situated. No payment, gift, grant, bequest, or other contribution for such purpose is invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating the fund, nor is the fund or any contribution to it invalid as violating any law against perpetuities or the suspension of the power of alienation of title to property.

**HISTORY:** Enacted Stats 1939 ch 60.

### **§ 8777. Custody and investment**

All money or property received by a cemetery authority for deposit in a special care fund shall be placed in the custody of the trustee or trustees thereof within 30 days after receipt by the cemetery authority. The corpus of special care trusts shall be invested and reinvested and kept invested as authorized by Section 8778.

**HISTORY:** Added Stats 1976 ch 729 § 7.

### **§ 8778. Permissible investments**

The following shall be eligible investments for all special care trusts:

- (a) Bonds of the United States or this state, or of any county, city, or city and county in this state.
- (b) Bonds that are legal investments for commercial banks in this state.
- (c) Certificates of deposit or other interest-bearing accounts in any bank in this state insured by the Federal Deposit Insurance Corporation.
- (d) Investment certificates or shares in any state or federally chartered savings and loan association insured by the Federal Savings and Loan Insurance Corporation.
- (e) Investments in first trust deeds on improved real estate, provided that the loans require monthly amortization of principal and interest and are fully amortized within 30 years or the term of the loan, whichever comes first. No loan shall be made to the cemetery authority, to the director, officer, or stockholder of a cemetery authority, or trustees of the special care funds, or to partners, relatives, agents, or employees thereof.
- (f) Any investment that is lawful for endowment care funds under Sections 8751 and 8751.1.

**HISTORY:** Added Stats 1976 ch 729 § 8. Amended Stats 1977 ch 496 § 2; Stats 2007 ch 307 § 1 (SB 795), effective January 1, 2008.

### **§ 8778.5. Administration of special care trust fund; Annual fee; Punishment for violation**

Each special care trust fund established pursuant to this article shall be administered in compliance with the following requirements:

- (a)(1) The board of trustees shall honor a written request of revocation by the trustor within 30 days upon receipt of the written request.
- (2) Except as provided in paragraph (3), the board of trustees upon revocation of a special care trust may assess a revocation fee on the earned income of the trust only, the amount of which shall not exceed 10 percent of the trust corpus, as set forth in subdivision (c) of Section 2370 of Title 16 of the California Code of Regulations.
- (3) If, prior to or upon the death of the beneficiary of a revocable special care trust, the cemetery authority is unable to perform the services of the special care trust fund agreement, the board of trustees shall pay

the entire trust corpus and all earned income to the beneficiary or trustor, or the legal representative of either the beneficiary or trustor, without the imposition of a revocation fee.

(b) Notwithstanding subdivision (d) of Section 2370 of Title 16 of the California Code of Regulations, the board of trustees may charge an annual fee for administering a revocable special care trust fund, which may be recovered by administrative withdrawals from current trust income, but the total administrative withdrawals in any year shall not exceed 4 percent of the trust balance.

(c) Notwithstanding Section 8785, any person, partnership, or corporation who violates this section shall be subject to disciplinary action as provided in Article 6 (commencing with Section 7686) of Chapter 12 of Division 3 of the Business and Professions Code, or by a civil fine not exceeding five hundred dollars (\$500), or by both, as determined by the Cemetery and Funeral Bureau and shall not be guilty of a crime.

**HISTORY:** Added Stats 2007 ch 307 § 2 (SB 795), effective January 1, 2008. Amended Stats 2009 ch 308 § 92 (SB 819), effective January 1, 2010; Stats 2018 ch 571 § 34 (SB 1480), effective January 1, 2019.

### **§ 8779. Preexisting investments**

Nothing in this article shall require liquidation or transmutation of any lawful investment existing on December 31, 1976, but any reinvestment shall be governed by Section 8778, and any interest or other increment actually received on account of such an investment shall be reinvested only as provided in Section 8778.

**HISTORY:** Added Stats 1976 ch 729 § 9.

### **§ 8779.5. Management of trusts**

Each special care fund established pursuant to this article shall be held in trust and managed by either the board of trustees of the cemetery authority's endowment care fund or by a board of trustees meeting the qualifications prescribed by this chapter for such a board of trustees. However, nothing in this section shall be construed to modify the terms of any special care trust established prior to January 1, 1977.

**HISTORY:** Added Stats 1976 ch 729 § 10.

## **ARTICLE 5 MISREPRESENTATION AS TO ENDOWMENT**

### **Section**

8780. Prohibition against offering endowment care plot before establishment of fund

8781. Prohibited representation that fund is permanent

**HISTORY:** Enacted Stats 1939 ch 60. The heading of Article 5, which formerly read "Misrepresentations as to Perpetual Care" amended to read as above by Stats 1951 ch 176 § 6.

### **§ 8780. Prohibition against offering endowment care plot before establishment of fund**

No person, partnership, corporation, association, or his, her, or its agents or representatives, shall sell, offer for sale, or advertise any plot under representation that the plot is under endowment care, before an endowment care fund has been established for the cemetery in which the plot is situated.

**HISTORY:** Enacted Stats 1939 ch 60. Amended Stats 1951 ch 176 § 41; Stats 1982 ch 897 § 3.

### **§ 8781. Prohibited representation that fund is permanent**

It shall be unlawful for a cemetery authority, its officers, employees or agents, or a cemetery broker or salesman to represent that an endowment care fund or any other fund set up for maintaining care is perpetual or permanent.

**HISTORY:** Added Stats 1951 ch 176 § 37, as H & S C § 8747. Renumbered by Stats 1982 ch 897 § 2.

## **ARTICLE 6 PENALTIES**

### **Section**

8785. Fine; Imprisonment; Disciplinary action

**HISTORY:** Added Stats 1982 ch 897 § 4.

### **§ 8785. Fine; Imprisonment; Disciplinary action**

Any person, partnership, or corporation administering, managing, or having responsibility for endowment care or special care funds who violates the provisions of this chapter relating to the collection, investment, or use of those funds shall be punished either by imprisonment in a county jail for a period not exceeding six months or by fine not exceeding five hundred dollars (\$500), or by both such imprisonment and fine, or by



imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or two or three years. If the violator is a cemetery licensee or the holder of a certificate of authority, he, she, or it shall be subject to disciplinary action as provided in Article 6 (commencing with Section 7686) of Chapter 12 of Division 3 of the Business and Professions Code.

**HISTORY:** Added Stats 1982 ch 897 § 4. Amended Stats 2011 ch 15 § 144 (AB 109), effective April 4, 2011, operative October 1, 2011; Stats 2018 ch 571 § 35 (SB 1480), effective January 1, 2019.

## CHAPTER 7 ABANDONMENT

### Section

- 8825. Declaration of abandonment
- 8826. Declaration in resolution; Publication of notice
- 8827. Removal of copings, improvements, and embellishments
- 8828. Dedication as pioneer memorial park, and erection of memorial; Quiet title action
- 8829. Maintenance of park

**HISTORY:** Added Stats 1957 ch 862 § 1.

### § 8825. Declaration of abandonment

A city or county having a nonendowment care cemetery within its boundaries which threatens or endangers the health, safety, comfort or welfare of the public may, by resolution of its governing board, if not more than 10 human dead bodies have been interred therein for a period of five years immediately preceding the date of the resolution, declare the abandonment of the cemetery as a place of future interment, but shall permit interment therein of any person who is an owner of a plot in the cemetery on the date of adoption of the resolution or who otherwise has a right of interment in the cemetery which is vested on such date. The resolution may provide for the removal of such copings, improvements, and embellishments which the governing board finds to be a threat or danger to the health, safety, comfort, or welfare of the public.

**HISTORY:** Added Stats 1957 ch 862 § 1. Amended Stats 1959 ch 1241 § 1; Stats 1977 ch 288 § 1.

### § 8826. Declaration in resolution; Publication of notice

The resolution for abandonment adopted under the provisions of this chapter shall specify and declare that at any time after the expiration of 60 days after the first publication of notice of declaration of intended abandonment, the city or county in which the cemetery is located will remove such copings, improvements, and embellishments which are found to be a threat or danger to the health, safety, comfort, or welfare of the public. Notice shall be given to all persons interested therein by publication in a newspaper of general circulation published in the county or city. Publication shall be pursuant to Section 6064 of the Government Code.

**HISTORY:** Added Stats 1957 ch 862 § 1. Amended Stats 1959 ch 1241 § 2.

### § 8827. Removal of copings, improvements, and embellishments

After the publication mentioned in Section 8826 of this code and after the expiration of the 60 days specified in the notice, the city or county shall remove such copings, improvements, and embellishments which have been found to be a threat or danger to the health, safety, comfort, or welfare of the public.

**HISTORY:** Added Stats 1957 ch 862 § 1. Amended Stats 1959 ch 1241 § 3.

### § 8828. Dedication as pioneer memorial park, and erection of memorial; Quiet title action

After the work which the governing body, in its discretion, finds necessary and practicable has been completed, the governing body shall immediately thereafter, by resolution, which shall contain a legal description of the cemetery, dedicate such abandoned cemetery as a pioneer memorial park and may cause to be erected a suitable central memorial honoring those who have been interred in the cemetery.

Upon recordation of the resolution with the county recorder of the county in which the cemetery is located, fee title to the cemetery shall vest in the city or county as the case may be. The governing body may bring an action to quiet title to the cemetery, and in the absence of fraud the resolution and the fact of recordation shall be conclusive evidence of fee title to the cemetery.

Any county or city acquiring fee title to a cemetery under this section shall only use the property for the purpose of establishing and maintaining a pioneer memorial park.

**HISTORY:** Added Stats 1957 ch 862 § 1. Amended Stats 1959 ch 1241 § 4; Stats 1970 ch 543 § 1.

### § 8829. Maintenance of park

Thereafter the city or county shall maintain said pioneer memorial park so that it will not endanger the health, safety, comfort, or welfare of the public.

**HISTORY:** Added Stats 1957 ch 862 § 1.

## PART 4 PUBLIC CEMETERY DISTRICTS

### Chapter

1. General Provisions
2. Formation
3. Board of Trustees
4. Powers
5. Interments
- 5.5. Interment Rights
6. Finances
7. Alternative Revenues
8. Zones

**HISTORY:** Added Stats 2003 ch 57 § 5. Former Part 4, entitled "Public Cemetery District", consisting of §§ 8890–9321, was repealed Stats 2003 ch 57 § 4.

## CHAPTER 1 GENERAL PROVISIONS

### Section

9000. Citation of part
9001. Legislative findings and declarations
9002. Definitions
9003. Authority
9004. Construction of part
9005. Severability
9006. Actions to determine validity of part or actions taken; Judicial review
9007. Inclusion of territory; Provisions for change of organization or reorganization; Status of district

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9000. Citation of part

This part shall be known and may be cited as the Public Cemetery District Law.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9001. Legislative findings and declarations

(a) The Legislature finds and declares all of the following:

(1) There is a continuing need to provide for the respectful and cost-effective interment of human remains to meet the cultural, economic, religious, and social needs of California's diverse communities.

(2) The Legislature authorized the creation of public cemetery districts in 1909 to assume responsibility for the ownership, improvement, expansion, and operation of cemeteries and the provision of interment services from fraternal, pioneer, religious, social, and other organizations that were unable to provide for those cemeteries.

(3) For nearly a century, public cemetery districts have provided communities with the means to publicly finance the ownership, improvement, expansion, and operation of public cemeteries and the provision of interment services, particularly in rural and formerly rural communities.

(4) Interment customs and practices have changed since the creation of the public cemetery districts but communities continue to need the means to own, improve, expand, and operate public cemeteries that provide respectful and cost-effective interments.

(b) In enacting this part, it is the intent of the Legislature to create and continue a broad statutory authority for a class of special districts that can own, improve, expand, and operate public cemeteries that provide respectful and cost-effective interments.

(c) It is also the intent of the Legislature that local officials adapt the powers and procedures provided by this part to meet the diversity of local conditions and circumstances.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9002. Definitions

The definitions in Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 apply to this part. Further, as used in this part, the following terms have the following meanings:

- (a) "Active militia" means the active militia as defined by Section 120 of the Military and Veterans Code.
- (b) "Armed services" means the armed services as defined by Section 18540 of the Government Code.
- (c) "Board of trustees" means the legislative body of a district.

(d) "District" means a public cemetery district created pursuant to this part or any of its statutory predecessors.

(e) "Domestic partner" means two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring, and are qualified and registered with the Secretary of State as domestic partners in accordance with Division 2.5 (commencing with Section 297) of the Family Code.

(f) "Family member" means any spouse, by marriage or otherwise, domestic partner, child or stepchild, by natural birth or adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons.

(g) "Firefighter" means a firefighter as defined by Section 1797.182.

(h)(1) "Interment right" means the rights held by the owner to use or control the use of a plot authorized by this part, for the interment of human remains, including both of the following rights:

(A) To determine the number and identity of any person or persons to be interred in the plot within a cemetery in conformance with all applicable regulations adopted by the cemetery district.

(B) To control the placement, design, wording, and removal of memorial markers in compliance with all applicable regulations adopted by the cemetery district.

(2) An interment right is a transferable property interest, and is governed by Chapter 5.5 (commencing with Section 9069.10).

(i) "Nonresident" means a person who does not reside within a district or does not pay property taxes on property located in a district.

(j) "Peace officer" means a peace officer as defined by Section 830 of the Penal Code.

(k) "Principal county" means the county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district.

(l) "Voter" means a voter as defined by Section 359 of the Elections Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341). Amended Stats 2009 ch 332 § 75.3 (SB 113), effective January 1, 2010; Stats 2013 ch 210 § 19 (SB 184), effective January 1, 2014; Stats 2016 ch 592 § 1 (SB 1179), effective January 1, 2017; Stats 2017 ch 561 § 110 (AB 1516), effective January 1, 2018.

### § 9003. Authority

(a) This part provides the authority for the organization and powers of public cemetery districts. This part succeeds the former Part 4 (commencing with Section 8890), as added by Chapter 60 of the Statutes of 1939, as subsequently amended, and any of its statutory predecessors.

(b) Any public cemetery district formed pursuant to the former Part 4 or any of its statutory predecessors that was in existence on January 1, 2004, shall remain in existence as if it has been organized pursuant to this part.

(c) Any indebtedness, special tax, benefit assessment, fee, election, ordinance, resolution, regulation, rule, or any other action of a district taken pursuant to the former Part 4 or of any of its statutory predecessors which was taken before January 1, 2004, shall not be voided solely because of any error, omission, informality, misnomer, or failure to comply strictly with this part.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9004. Construction of part

This part is necessary to protect the public health, safety, and welfare, and shall be liberally construed to effectuate its purposes.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9005. Severability

If any provision of this part or the application of any provision of this part in any circumstance or to any person, city, county, special district, school district, the state, or any agency or subdivision of the state is held invalid, that invalidity shall not affect other provisions or applications of this part that can be given effect without the invalid provision or application of the invalid provision, and to this end the provisions of this part are severable.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9006. Actions to determine validity of part or actions taken; Judicial review

(a) Any action brought to determine the validity of the organization or of any action of a district shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(b) Any judicial review of an action taken pursuant to this part shall be conducted pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9007. Inclusion of territory; Provisions for change of organization or reorganization; Status of district**

(a) Except as provided in this section, territory, whether incorporated or unincorporated, whether contiguous or noncontiguous, may be included in a district. Territory that is already within a public cemetery district or another type of special district that provides cemetery facilities and services shall not be included within a public cemetery district.

(b) Except as provided in this part, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code, shall govern any change of organization or reorganization of a district. In the case of any conflict between that division and this part, the provisions of this part shall prevail.

(c) A district shall be deemed an "independent special district," as defined by Section 56044 of the Government Code, except when a county board of supervisors has appointed itself as the board of trustees.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

## **CHAPTER 2 FORMATION**

### Section

- 9010. Formation of new district
- 9011. Petition; Contents
- 9012. Notice of intention to petition
- 9013. Proposal to form district by legislative body of city or county
- 9014. Approval by local agency formation commission

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9010. Formation of new district**

A new district may be formed pursuant to this chapter.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9011. Petition; Contents**

(a) A proposal to form a new district may be made by petition. The petition shall do all of the things required by Section 56700 of the Government Code. In addition, the petition shall:

- (1) Set forth the methods by which the district will be financed, including but not limited to special taxes, special benefit assessments, and fees.
- (2) Propose a name for the district.
- (3) Specify the size of the initial board of trustees and the method of their appointment.

(b) The petitions, the proponents, and the procedures for certifying the sufficiency of the petitions shall comply with Chapter 2 (commencing with Section 56700) of Part 3 of Division 3 of Title 5 of the Government Code. In the case of any conflict between that chapter and this chapter, the provisions of this chapter shall prevail.

(c) The petition shall be signed by not less than 25 percent of the registered voters residing in the area to be included in the district, as determined by the local agency formation commission.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9012. Notice of intention to petition**

(a) Before circulating any petition, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for forming the district and the methods by which the district will be financed. The notice shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the territory proposed to be included in the district. If the territory proposed to be included in the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each of the counties.

(b) The following shall be signed by a representative of the proponent, and shall be in substantially the following form:

"Notice of Intent to Circulate Petition

"Notice is hereby given of the intention to circulate a petition proposing to form the \_\_\_\_ [name of the district]. The reasons for forming the proposed district are: \_\_\_\_\_. The method(s) by which the proposed district will be financed are: \_\_\_\_\_."

(c) Within five days after the date of publication, the proponents shall file with the executive officer of the local agency formation commission of the principal county a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of the publication.

(d) After the filing required pursuant to subdivision (c), the petition may be circulated for signatures.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9013. Proposal to form district by legislative body of city or county**

(a) A proposal to form a new district may also be made by the adoption of a resolution of application by the legislative body of any county or city that contains the territory proposed to be included in the district. Except for the provisions regarding the signers, signatures, and the proponents, a resolution of application shall contain all of the matters specified for a petition in Section 9011.

(b) Before adopting a resolution of application, the legislative body shall hold a public hearing on the resolution. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the county or city. At least 20 days before the hearing, the legislative body shall give mailed notice of its hearing to the executive officer of the local agency formation commission of the principal county. The notice shall generally describe the proposed formation of the district and the territory proposed to be included in the district.

(c) At the hearing, the legislative body shall give any person an opportunity to present his or her views on the resolution.

(d) The clerk of the legislative body shall file a certified copy of the resolution of application with the executive officer of the local agency formation commission of the principal county.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9014. Approval by local agency formation commission**

(a) Once the proponents have filed a sufficient petition or a legislative body has filed a resolution of application, the local agency formation commission shall proceed pursuant to Part 3 (commencing with Section 56650) of Division 3 of Title 5 of the Government Code.

(b) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a district unless the commission determines both of the following:

(1) That the public interest requires the formation of the proposed district.

(2) That the proposed district will have sufficient revenues to carry out its purposes.

(c) Notwithstanding paragraph (2) of subdivision (b), a local agency formation commission may approve a proposal that includes the formation of a district where the commission has determined that the proposed district will not have sufficient revenue, provided that the commission conditions the approval on the approval by the voters of special taxes or approval by the property owners of special benefit assessments that will generate those sufficient revenues. The commission shall provide that if the voters do not approve the special taxes or if the property owners do not approve the special benefit assessments, the proposed district shall not be formed.

(d) If the local agency formation commission approves the proposal for the formation of a district, then, notwithstanding Section 57007 of the Government Code, the commission shall proceed pursuant to Part 4 (commencing with Section 57000) of Division 3 of Title 5 of the Government Code.

(e) Notwithstanding Section 57075 of the Government Code, the local agency formation commission shall take one of the following actions:

(1) If a majority protest exists in accordance with Section 57078 of the Government Code, the commission shall terminate proceedings.

(2) If no majority protest exists, the commission shall either:

(A) Order the formation subject to the approval by the voters.

(B) Order the formation subject to the approval by the voters of a special tax or the approval by the property owners of a special benefit assessment, pursuant to subdivision (c).

(f) If the local agency formation commission orders the formation of a district pursuant to paragraph (2) of subdivision (e), the commission shall direct the board of supervisors to direct county officials to conduct the necessary elections on behalf of the proposed district.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).



## CHAPTER 3 BOARD OF TRUSTEES

### Section

9020.	District to be governed by board
9021.	Appointment of board
9022.	Requirements to be board member
9023.	Determination of initial board
9024.	Term of board members; Vacancies
9025.	Request to change number of members
9026.	Appointment of supervisors as trustees
9027.	Change in number of board members for consolidated or reorganized districts
9028.	Election of officers
9029.	Frequency of meetings
9030.	Actions by board; Quorum; Voting; Records
9031.	Compensation of members; Expenses

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9020. District to be governed by board

A legislative body of at least three members known as the board of trustees shall govern every district. The board of trustees shall establish policies for the operation of the district. The board of trustees shall provide for the faithful implementation of those policies which is the responsibility of the employees of the district.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9021. Appointment of board

Within 30 days after the effective date of the formation of a district, a board of trustees shall be appointed as follows:

(a) In the case of a district that contains territory in a single county, the board of supervisors shall appoint three or five persons to the board of trustees.

(b) In the case of a district that contains territory in more than one county, the board of supervisors of the principal county shall appoint three or five persons from any county in which the district is located to the board of trustees.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9022. Requirements to be board member

(a) Each person appointed by a board of supervisors to be a member of a board of trustees shall be a voter in the district.

(b) All trustees shall exercise their independent judgment on behalf of the interests of the residents, property owners, and the public as a whole in furthering the purposes and intent of this part. The trustees shall represent the interests of the public as a whole and not solely the interests of the board of supervisors that appointed them.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9023. Determination of initial board

(a) The initial board of trustees of a district formed on or after January 1, 2004, shall be determined pursuant to this section.

(b) The persons appointed to the initial board of trustees shall meet on the first Monday after 45 days after the effective date of the formation of the district.

(c) At the first meeting of the initial board of trustees, the trustees shall classify themselves by lot into two classes, as nearly equal as possible. The term of office of the class having the greater number shall expire at noon on the first Monday in January that is closest to the fourth year from the appointments made pursuant to Section 9021. The term of office of the class having the lesser number shall expire at noon on the first Monday in January that is closest to the second year from the appointments made pursuant to Section 9021.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9024. Term of board members; Vacancies

(a) Except as provided in subdivision (b) of this section, subdivision (c) of Section 9023, and subdivision (d) of Section 9026, the term of office for a member of the board of trustees shall be for a term of four years and until the appointment and qualification of the successor. Terms of office commence at noon on the first Monday in January.

(b) For districts formed before January 1, 2004, where the members of the board of trustees are not serving staggered terms, the board of supervisors shall stagger the terms of the trustees and to accomplish this purpose shall appoint trustees, on or after January 1, 2004, for terms of less than four years. However, a board of supervisors shall not reduce the term of office of a trustee once the trustee has been appointed to that term, whether the appointment was made before, on, or after January 1, 2004.

(c) Any vacancy in the office of a member appointed to a board of trustees shall be filled promptly pursuant to Section 1779 of the Government Code. Any person appointed to fill a vacant office shall fill the balance of the unexpired term.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9025. Request to change number of members**

(a) A board of trustees may adopt a resolution requesting the board of supervisors of the principal county to increase or decrease the number of members of the board of trustees. The resolution shall specify the number of members for which the board of trustees requests the increase or decrease.

(b) Within 60 days of receiving a resolution adopted pursuant to subdivision (a), the board of supervisors shall consider the resolution at a public hearing. The board of supervisors shall give notice of its hearing by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district at least 10 days before the hearing. In addition, the board of supervisors shall mail the notice at least 10 days before the hearing to the district and any other person who has filed written request for notice with the clerk of the board of supervisors.

(c) At its hearing, the board of supervisors shall receive and consider any written or oral comments regarding the resolution. After receiving and considering those comments, the board of supervisors may adopt a resolution that orders the increase or decrease in the number of members of the board of trustees.

(d) If the board of supervisors adopts a resolution that orders an increase in the number of members of the board of trustees, the board of supervisors shall promptly appoint a person or persons to the board of trustees and specify their term of office, consistent with the requirements of this part. If the board of supervisors adopts a resolution that orders a decrease in the number of members of the board of trustees, the board of supervisors shall designate the trustee or trustees whose office shall be eliminated at the termination of the trustee's current term of office. Any trustee whose office is designated to be eliminated shall continue to serve until his or her term expires.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9026. Appointment of supervisors as trustees**

(a) The board of supervisors of the principal county may appoint itself to be the board of trustees of a district and the board of supervisors may divest itself of that authority, pursuant to this section.

(b) In the case of a district that has a board of trustees appointed by the board of supervisors, the board of supervisors may adopt a resolution declaring its intention to appoint itself to be the board of trustees of the district. In the case of a district where the board of supervisors has appointed itself to be the board of trustees, the board of supervisors may adopt a resolution declaring its intention to divest itself of that authority.

(c) Within 60 days of adopting a resolution adopted pursuant to subdivision (b), the board of supervisors shall hold a public hearing on the question whether the board of supervisors should govern the district. The board of supervisors shall give notice of its hearing by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district at least 10 days before the hearing. In addition, the board of supervisors shall mail the notice at least 10 days before the hearing to the district and any other person who has filed written request for notice with the clerk of the board of supervisors.

(d) At its hearing, the board of supervisors shall receive and consider any written or oral comments regarding a resolution adopted pursuant to subdivision (b). At the conclusion of the hearing, the board of supervisors shall make a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

(1) In the case of a district that has a board of trustees appointed by the board of supervisors:

(A) If the written protests filed and not withdrawn are less than 10 percent of the registered voters of the district, the board of supervisors may by a majority vote adopt a resolution terminating the appointed board of trustees and appointing itself as the board of trustees of the district. In that case, the terms of any trustees appointed by the board of supervisors shall terminate immediately.

(B) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district, the board of supervisors may determine that the proposed change in governance is necessary to

protect the public health, safety, and welfare. If the board of supervisors makes that determination, the board of supervisors may override those protests and by a four-fifths vote adopt a resolution terminating the appointed board of trustees and appointing itself as the board of trustees of the district. In that case, the terms of any trustees appointed by the board of supervisors shall terminate immediately.

(C) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district and if the board of supervisors does not adopt a resolution pursuant to paragraph (B), the board of supervisors shall adopt a resolution that terminates the proceedings to change the governance of the district.

(2) In the case of a district where the board of supervisors has appointed itself to be the board of trustees:

(A) If the written protests filed and not withdrawn are less than 10 percent of the registered voters of the district, the board of supervisors may by a majority vote adopt a resolution divesting itself of that authority. In that case, the board of supervisors shall promptly appoint persons as members of the board of trustees pursuant to this part.

(B) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district, the board of supervisors may determine that the proposed change in governance is necessary to protect the public health, safety, and welfare. If the board of supervisors makes that determination, the board of supervisors may override those protests and by a four-fifths vote adopt a resolution divesting itself of that authority. In that case, the board of supervisors shall promptly appoint persons as members of the board of trustees pursuant to this part.

(C) If the written protests filed and not withdrawn are 10 percent or more of the registered voters of the district and if the board of supervisors does not adopt a resolution pursuant to paragraph (B), the board of supervisors shall adopt a resolution that terminates the proceedings to change the governance of the district.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9027. Change in number of board members for consolidated or reorganized districts**

(a) A local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single district, may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, change the number of members on the board of trustees of the consolidated or reorganized district, provided that the resulting number of trustees shall be an odd number but not less than five.

(b) Upon the expiration of the terms of the members of the board of trustees of the consolidated or reorganized district whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of trustees shall be reduced until the number equals the number of members determined by the local agency formation commission.

(c) Notwithstanding subdivision (c) of Section 9024, in the event of a vacancy on the board of trustees of the consolidated or reorganized district at a time when the number of members of the board of trustees is greater than the number determined by the local agency formation commission, the vacancy shall not be filled and the membership of the board of trustees shall be reduced by one member.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9028. Election of officers**

(a) At the first meeting of the initial board of trustees of a newly formed district, and in the case of an existing district not later than the first meeting of every calendar year, the board of trustees shall elect its officers.

(b) The officers of a board of trustees are a chairperson, vice chairperson, and a secretary. The chairperson and vice chairperson shall be trustees. The secretary may be either a trustee or a district employee. A board of trustees may create additional officers and elect members to those positions. No trustee shall hold more than one office.

(c) Except as provided in Section 9077, the county treasurer of the principal county shall act as the district treasurer. The county treasurer shall receive no compensation for the receipt and disbursement of money of the district.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9029. Frequency of meetings**

A board of trustees shall meet at least once every three months. Meetings of the board of trustees are subject to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9030. Actions by board; Quorum; Voting; Records

- (a) A majority of the board of trustees shall constitute a quorum for the transaction of business.
- (b) Except as otherwise specifically provided to the contrary in this part, a recorded vote of a majority of the total membership of the board of trustees is required on each action.
- (c) The board of trustees shall act only by ordinance, resolution, or motion.
- (d) The board of trustees shall keep a record of all of its acts, including financial transactions.
- (e) The board of trustees shall adopt rules for its proceedings.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9031. Compensation of members; Expenses

- (a) The board of trustees may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board. A member of the board of trustees shall not receive compensation for more than six meetings of the board in a calendar month. Commencing January 1, 2019, if the district compensates its members for more than four meetings in a calendar month, the board of trustees shall annually adopt a written policy describing, based on a finding supported by substantial evidence, why more than four meetings per calendar month are necessary for the effective operation of the district.
- (b) The board of trustees, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation received for attending meetings of the board.
- (c) In addition, members of the board of trustees may receive their actual and necessary traveling and incidental expenses incurred while on official business other than a meeting of the board.
- (d) A member of the board of trustees may waive any or all of the payments permitted by this section.
- (e) For the purposes of this section, a meeting of the board of trustees includes, but is not limited to, regular meetings, special meetings, closed sessions, emergency meetings, board field trips, district public hearings, or meetings of a committee of the board.
- (f) For purposes of this section, the determination of whether a trustee's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- (g) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341). Amended Stats 2005 ch 700 § 13 (AB 1234), effective January 1, 2006; Stats 2018 ch 170 § 1 (AB 2329), effective January 1, 2019.

## CHAPTER 4 POWERS

### Section

- 9040. Maintenance of districts
- 9041. Rights and powers of district
- 9042. Acquisition, improvement, use and disposal of land
- 9043. Succession; Changing name of district; Destruction of records
- 9044. Adoption of policies and procedures; Purchasing supplies
- 9045. Application of Myer-Milias-Brown Act; Employee relations system
- 9046. Bonding of employees or officers
- 9047. Provision of employee benefit programs
- 9048. Payment of certain travel expenses
- 9049. Sale of interment rights
- 9050. Columbariums
- 9051. Mausoleums
- 9052. Monuments and markers
- 9053. Sale of accessory or replacement objects
- 9054. Sale or lease of land for future cemetery
- 9055. Conveyance of cemetery; Resolution of intention
- 9056. Dedication of property to another public agency

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9040. Maintenance of districts

- (a) A district may own, operate, improve, and maintain cemeteries and provide interment services within its boundaries.
- (b) A district shall maintain the cemeteries owned by the district.

(c) The district that owns a cemetery shall have exclusive jurisdiction and control over its maintenance and management.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9041. Rights and powers of district**

A district shall have and may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this part, including, but not limited to, all of the following powers:

- (a) To sue and be sued.
- (b) To acquire by purchase, eminent domain, grant, gift, lease, or other lawful means, any real property within the district or any personal property that may be necessary or proper to carry out the purposes and intent of this part.
- (c) To sell, lease, or otherwise dispose of any real or personal property. A board of trustees may exchange equivalent properties if the board determines that the exchange is in the best interests of the district.
- (d) To donate any surplus real or personal property to any public agency or nonprofit organizations.
- (e) To engage necessary employees, to define their qualifications and duties, and to provide a schedule of compensation for performance of their duties.
- (f) To engage counsel and other professional services.
- (g) To enter into and perform all necessary contracts.
- (h) To borrow money, give security therefore, and purchase on contract, as provided in this part.
- (i) To adopt a seal and alter it at pleasure.
- (j) To adopt ordinances following the procedures of Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.
- (k) To adopt and enforce rules and regulations for the administration, maintenance, operation, and use of cemeteries.
- (l) To enter joint powers agreements pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.
- (m) To provide insurance pursuant to Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.
- (n) To provide training to trustees that will assist in the governance of the district.
- (o) To appoint one or more advisory committees to make recommendations for the ownership, improvement, expansion, and the operation of cemeteries owned by the district and the provision of interment services.
- (p) To take any and all actions necessary for, or incidental to, the powers expressed or implied by this part.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9042. Acquisition, improvement, use and disposal of land**

- (a) When acquiring, improving, or using any real property, a district shall comply with Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5 and Article 7 (commencing with Section 65400) of Chapter 1 of Division 1 of Title 7 of the Government Code.
- (b) When disposing of surplus land, a district shall comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9043. Succession; Changing name of district; Destruction of records**

- (a) A district shall have perpetual succession.
- (b) A board of trustees may, by a two-thirds vote of its total membership, adopt a resolution to change the name of the district. The name shall contain the words "public cemetery district" or "cemetery district." The resolution shall comply with the requirements of Chapter 23 (commencing with Section 7530) of Division 7 of Title 2 of the Government Code. Within 10 days of its adoption, the board of trustees shall file a copy of its resolution with the Secretary of State, the county clerk, the board of supervisors, and the local agency formation commission of each county in which the district is located.
- (c) A district may destroy a record, paper, or document pursuant to Chapter 7 (commencing with Section 60200) of Division 1 of Title 6 of the Government Code, unless the board of trustees determines that there is a need for its retention. In determining whether there is a need for retaining a document, the board of trust-



ees shall consider future public need, the effect on statutes of limitation, and historical significance. This subdivision does not apply to records of interments that are governed by Section 9064.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9044. Adoption of policies and procedures; Purchasing supplies**

(a) Each district shall adopt policies and procedures, including bidding regulations, governing the purchase of supplies and equipment. Each district shall adopt these policies and procedures by rule or regulation pursuant to Article 7 (commencing with Section 54201) of Chapter 5 of Division 2 of Title 5 of the Government Code.

(b) A district may request the Department of General Services to make purchases of materials, equipment, or supplies on its behalf pursuant to Section 10298 of the Public Contract Code.

(c) A district may request the purchasing agent of the principal county to make purchases of materials, equipment, or supplies on its behalf pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code.

(d) A district may request the purchasing agent of the principal county to contract with persons to provide projects, services, and programs authorized by this part pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9045. Application of Myer-Milias-Brown Act; Employee relations system**

(a) The Myers-Milias-Brown Act, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code applies to all districts.

(b) A board of trustees may adopt an ordinance establishing an employee relations system that may include, but is not limited to, a civil service system or a merit system.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9046. Bonding of employees or officers**

A board of trustees may require any employee or officer to be bonded. The district shall pay the cost of the bonds.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9047. Provision of employee benefit programs**

A board of trustees may provide for any programs for the benefit of its employees and members of the board of trustees pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of Division 2 of Title 5 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9048. Payment of certain travel expenses**

A district may authorize the members of its board of trustees and its employees to attend professional, educational, or vocational meetings, and pay their actual and necessary traveling and incidental expenses while on official business. The payment of expenses pursuant to this section may be in addition to the payments made pursuant to Section 9031.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9049. Sale of interment rights**

A district may sell interment rights in its cemeteries, columbariums, and mausoleums, subject to the limitations of this part.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9050. Columbariums**

(a) A district may acquire, construct, improve, maintain, or repair a columbarium for the placement of cremated remains.

(b) A district shall comply with the Mausoleum and Columbarium Law, Part 5 (commencing with Section 9501).

(c) A district that sells interment rights in a columbarium shall require a deposit to be made in the endowment care fund pursuant to Section 9065.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9051. Mausoleums**

(a) A district may acquire, maintain, or repair a mausoleum for crypt entombment that was completed on or before May 1, 1937. A district may construct additions to the mausoleum.

(b) Notwithstanding subdivision (a), the Visalia Public Cemetery District may acquire and manage the mausoleum originally constructed by the City of Visalia in 1965.

(c) Notwithstanding subdivision (a), the Arroyo Grande Cemetery District may allow a private mausoleum, as defined by Section 9504.5. The cost of construction and maintenance shall be completely borne by the person or persons for whom the private mausoleum is constructed. That person or persons shall contribute to a special care trust fund an amount of money that, when invested, will provide a return sufficient to assure adequate maintenance of the private mausoleum. The district shall not use public funds to construct, maintain, or repair a private mausoleum.

(d) Notwithstanding subdivision (a), a district may allow a private mausoleum, as defined by Section 9504.5, if the mausoleum was completed on or before January 1, 2003.

(e) A district shall comply with the Mausoleum and Columbarium Law, Part 5 (commencing with Section 9501).

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9052. Monuments and markers**

(a) A district may require that monuments or markers shall be placed at interment plots.

(b) A district may adopt minimum requirements for the permanency of monuments or markers.

(c) A district may cause to be purchased and placed suitable permanent monuments or markers at the interment plots of indigents, persons whose estates are insufficient to pay for the monuments or markers, or persons who have no responsible survivors to pay for the monuments or markers. A district may accept gifts or donations for the exclusive purpose of purchasing and placing these monuments or markers.

(d) A district, a member of the board of trustees, a district officer, or a district employee shall not engage in the business of selling monuments or markers.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9053. Sale of accessory or replacement objects**

A district may sell accessory and replacement objects that are necessary or convenient to interments, including but not limited to burial vaults, liners, and flower vases, but excluding monuments or markers.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9054. Sale or lease of land for future cemetery**

(a) A district may use or lease land acquired for a future cemetery for an enterprise if all of the following conditions apply:

(1) The district has filed with the county recorder a declaration of intention to use the land for a cemetery.

(2) The amount of land is reasonably necessary for the district's future requirements.

(3) The enterprise is consistent with the applicable regulations of the city or county in which the land is located.

(4) The enterprise does not permit the conduct of funeral or cemetery functions not authorized by this part.

(5) The enterprise does not prevent the future use of the land as a cemetery.

(b) A district may lease land acquired for future cemetery use to a public agency for recreational use, provided that the district has filed with the county recorder a declaration of intention to use the land for a cemetery.

(c) Nothing in this part authorizes a district to acquire or retain real property that is not reasonably necessary for the district's future requirements.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9055. Conveyance of cemetery; Resolution of intention**

(a) A district may convey a cemetery owned by the district to any cemetery authority, pursuant to this section.

(b) The board of trustees of a district that proposes to convey a cemetery owned by the district to a cemetery authority shall adopt a resolution of intention that contains:

(1) A description of the cemetery that the district proposes to convey.

(2) The name of the cemetery authority to which the district proposes to convey the cemetery.

(3) An appendix that reports the cemetery's current assets and current liabilities and contains a reasonable projection of the district's ability to finance the ownership, improvement, expansion, and operation of the cemetery in the future.

(4) The terms and conditions of the proposed conveyance. The terms and conditions shall require all of the following:

(A) The cemetery authority maintain the cemetery as a endowment care cemetery pursuant to Sections 8738 and 8738.1.

(B) Appropriate consideration, as determined by the board of trustees.

(C) A restriction in the deed that conveys the cemetery to the cemetery authority that will permit the district or another public agency as the district's successor in interest to enter the cemetery and perform any repairs, restoration, or maintenance that the district or its successor deems necessary to protect the public interest, and will require the cemetery authority to reimburse the district or its successor for those costs.

(D) Any other terms and conditions that the board of trustees determines to be necessary to protect the public interest in the cemetery.

(5) A declaration that the proposed conveyance is in the public interest and in the best interests of the district.

(c) The board of trustees shall send its resolution of intention to the board of supervisors of the principal county.

(d) Within 60 days of receiving a resolution of intention adopted pursuant to subdivision (b), the board of supervisors shall hold a public hearing on the proposed conveyance. The board of supervisors shall give notice of its hearing by publishing a notice pursuant to Section 6064 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district with the first day of publication at least 30 days before the hearing. The board of supervisors shall post the public notice in at least three public places within the jurisdiction of the district, at least 30 days before the hearing. One of the public places shall be at the cemetery that the district proposes to convey, and one of the public places shall be at the offices of the district. In addition, the board of supervisors shall mail the notice at least 30 days before the hearing to the district, the cemetery authority, and any other person who has filed written request for notice with the clerk of the board of supervisors.

(e) At its hearing, the board of supervisors shall receive and consider any written or oral comments regarding the proposed conveyance of the cemetery. At the conclusion of the hearing, the board of supervisors shall make a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

(1) If the written protests filed and not withdrawn are at least 50 percent of the registered voters of the district or property owners owning at least 50 percent of the assessed value of the land within the district, the board of supervisors shall adopt a resolution that terminates the proceedings to convey the cemetery.

(2) If the written protests filed and not withdrawn are less than 50 percent of the registered voters of the district or property owners owning less than 50 percent of the assessed value of the land within the district, the board of supervisors may by a four-fifths vote adopt a resolution that concurs in the conveyance of the cemetery to the cemetery authority.

(f) The board of supervisors shall send copies of its resolution adopted pursuant to subdivision (e) to the district and the cemetery authority.

(g) If the board of supervisors adopts a resolution that concurs in the proposed conveyance of the cemetery, the board of trustees may order the conveyance of the cemetery to the cemetery authority, subject to the terms and conditions set by the board of trustees and concurred in by the board of supervisors.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9056. Dedication of property to another public agency**

(a) A district may dedicate real property or an interest in real property owned by the district to another public agency for use as roads or utility rights-of-way, including but not limited to water, sewer, drainage, gas or electricity transmission, or communications purposes, pursuant to this section.

(b) The board of trustees of a district that proposes to dedicate real property or an interest in real property owned by the district to another public agency shall adopt a resolution of intention that contains:

- (1) A description of the real property or interest in real property.
- (2) The name of the public agency to which the district proposes to dedicate the property.
- (3) The terms and conditions, including any consideration, of the proposed dedication.
- (4) Findings, based on substantial evidence in the record:
  - (A) That the real property has never been used for interments.
  - (B) That no interment rights have been sold or leased for the real property.
  - (C) That the district does not need the property for cemetery purposes.
- (5) A statement of the reason or reasons for the proposed dedication.
- (6) A declaration that the proposed dedication is in the public interest and in the best interests of the district.

(c) Within 60 days of adopting a resolution of intention pursuant to subdivision (b), the board of trustees shall hold a public hearing on the proposed dedication. The board of trustees shall give notice of its hearing by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district at least 10 days before the hearing. The board of trustees shall post the public notice in at least three public places within the jurisdiction of the district, at least 10 days before the hearing. One of the public places shall be at the real property that the district proposes to dedicate, and one of the public places shall be at the offices of the district. In addition, the board of trustees shall mail the notice at least 10 days before the hearing to the other public agency and any other person who has filed written request for notice with the board of trustees.

(d) If the board of trustees adopts a resolution that dedicates the real property to another public agency, the board of trustees shall promptly execute a deed of dedication and send the deed to the other public agency. The dedication is effective when the other public agency records the deed of dedication with the county recorder of the county in which the real property is located.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

## CHAPTER 5 INTERMENTS

### Section

- 9060. Limitation of interments
- 9061. Interment of nonresident or non-taxpayer
- 9062. Contract with county
- 9063. Interment of nonresidents by Oroville Cemetery District
- 9063.3. Interment of certain Nevada residents by Happy Homestead Cemetery District
- 9063.5. Requirements for burial of a nonresident in Elsinore Valley Cemetery District
- 9063.7. Interment of nonresidents by Davis Cemetery District
- 9063.9. Interment of nonresidents and non-taxpayers by Cottonwood Cemetery District, Anderson Cemetery District, Halcumb Cemetery District, Kern River Valley Cemetery District, and Silveyville Cemetery District
- 9064. Record keeping
- 9065. Endowment care fund
- 9066. Investment of endowment care fund principal
- 9067. Investment of funds in certain securities and obligations
- 9068. Schedule of fees
- 9069. Abandonment of plot

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9060. Limitation of interments

(a) A district shall limit interment in a cemetery owned by the district to interment in the ground, in columbariums, and in mausoleums, as provided in this part.

(b) A district shall limit interments to:

- (1) Persons who are residents of the district.
- (2) Persons who are former residents of the district and who acquired interment rights while they were residents of the district.
- (3) Persons who pay property taxes on property located in the district.
- (4) Persons who formerly paid property taxes on property located in the district and who acquired interment rights while they paid those property taxes.
- (5) Eligible nonresidents of the district, as provided in this chapter.
- (6) Persons who are family members of any person described in this subdivision.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9061. Interment of nonresident or non-taxpayer**

(a) A district may inter a person who is not a resident of the district or a person who does not pay property taxes on property located in the district in a cemetery owned by the district if all of the following apply:

(1) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.

(2) The district requires the payment of a nonresident fee set pursuant to Section 9068. A board of trustees may adopt a written policy that permits waiving the payment of the nonresident fee for a nonresident who had purchased an interment right while a resident or a taxpayer.

(3) The person meets the conditions listed in one or more of subdivisions (b) through (e).

(b) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if the person is a family member of a person who is already interred in a cemetery owned by the district or is a family member of a person who has acquired interment rights in a cemetery owned by a district.

(c) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if all of the following apply:

(1) The person was a resident of the district or paid property taxes on property located in the district for continuous period of at least five years, a portion of which time period shall have occurred within the 10 years immediately before the person's death.

(2) The district receives a written request for the interment of the person from a person who is a resident of the district or who pays property taxes on property located within the district, and the person submitting the written request is not a trustee, officer, or employee of the district and is not a funeral director or an employee of a funeral director.

(3) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

(d) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if all of the following apply:

(1) The person was a resident of this state at the time of death.

(2) There is no private cemetery within a straight-line radius of 15 miles of the person's residence.

(3) There is no private cemetery nearer to the person's residence than the nearest cemetery owned by the district.

(4) The distances shall be measured in a straight line from the person's residence to the nearest private cemetery and the nearest cemetery owned by the district.

(e) A person is an eligible nonresident pursuant to paragraph (5) of subdivision (b) of Section 9060 if all of the following apply:

(1) The person died while either:

(A) Serving in the Armed Forces or the active militia, or

(B) In the line of duty as a peace officer or firefighter.

(2) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9062. Contract with county**

Notwithstanding Section 9060, the board of trustees may contract with any county in which the district is located to inter persons for whose interment the county is responsible pursuant to Chapter 10 (commencing with Section 27460) of Division 2 of Title 3 of the Government Code or Chapter 3 (commencing with Section 7100) of Part 1 of Division 7 of this code, if all of the following apply:

(a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

(b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.

(c) The contract requires the county to pay the costs of the interment, including a payment to the district's endowment care fund.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9063. Interment of nonresidents by Oroville Cemetery District**

Notwithstanding Section 9060, the Oroville Cemetery District may use its cemetery on Feather River Boulevard, north of Oro Dam Boulevard for up to a total of 100 interments, for interment in the ground of any person who is not a resident of the district if all of the following apply:

(a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.

(b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.



- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9063.3. Interment of certain Nevada residents by Happy Homestead Cemetery District**

Notwithstanding Sections 9060 and 9061, the Happy Homestead Cemetery District located in the City of South Lake Tahoe in the County of El Dorado may inter residents of the Nevada communities of Glenbrook, Cave Rock, Skyland, Zephyr Cove, Round Hill, Elk Point, Kingsbury, and Stateline in the cemeteries in the district if all of the following apply:

- (a) The Happy Homestead Cemetery District Board of Trustees determines that the district's cemeteries have adequate space for the foreseeable future.
- (b) The district has an endowment care fund that requires a contribution for every interment of at least the minimum amount set pursuant to Sections 8738, 9065, and 9068.
- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

**HISTORY:** Added Stats 2016 ch 242 § 1 (AB 1658), effective January 1, 2017.

**§ 9063.5. Requirements for burial of a nonresident in Elsinore Valley Cemetery District**

Notwithstanding Section 9060, the Elsinore Valley Cemetery District may use the portion of its cemetery formerly known as Home of Peace for up to a total of 536 interments, for interment in the ground of any person who meets the criteria for burial in that area but is not a resident of the district if all of the following apply:

- (a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.
- (b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.
- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

**HISTORY:** Added Stats 2010 ch 40 § 1 (AB 1969), effective January 1, 2011.

**§ 9063.7. Interment of nonresidents by Davis Cemetery District**

Notwithstanding Section 9060, the Davis Cemetery District may use its cemetery at 820 Pole Line Road, Davis, for up to a total of 500 interments, for interment in the ground of any person who is not a resident or a property taxpayer of the district if all of the following apply:

- (a) The board of trustees determines that the cemetery has adequate space for the foreseeable future.
- (b) The district has an endowment care fund that requires at least the minimum payment set pursuant to Section 9065.
- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

**HISTORY:** Added Stats 2011 ch 111 § 1 (AB 966), effective January 1, 2012.

**§ 9063.9. Interment of nonresidents and non-taxpayers by Cottonwood Cemetery District, Anderson Cemetery District, Halcumb Cemetery District, Kern River Valley Cemetery District, and Silveyville Cemetery District**

Notwithstanding Sections 9060 and 9061, the Cottonwood Cemetery District in Shasta County, the Anderson Cemetery District in Shasta County, the Halcumb Cemetery District in Shasta County, the Kern River Valley Cemetery District in Kern County, and the Silveyville Cemetery District in Solano County may use their cemeteries for up to a total of 400 interments each, not to exceed 40 interments each per calendar year, for interment in the ground or a columbarium of any person who is not a resident or a property taxpayer of any cemetery district, and who does not qualify for that interment pursuant to Section 9061, if all of the following apply:

- (a) The board of trustees determines that the district's cemetery has adequate space for the foreseeable future.
- (b) The district has an endowment care fund that requires a contribution for every interment of at least the minimum amount set pursuant to Sections 8738 and 9065.
- (c) The district requires the payment of a nonresident fee set pursuant to Section 9068.

**HISTORY:** Added Stats 2012 ch 65 § 1 (SB 1131), effective January 1, 2013. Amended Stats 2013 ch 55 § 1 (SB 159), effective January 1, 2014; Stats 2014 ch 276 § 1 (SB 1291), effective January 1, 2015.

**§ 9064. Record keeping**

- (a) The board of trustees shall cause to be prepared and maintained accurate and current records of:

(1) The cemeteries owned by the district, showing the location of the sites where persons have acquired interment rights, including the names and addresses of the persons who have acquired these interment rights, and the location of plots where interment rights are available for acquisition.

(2) All remains interred in cemeteries owned by the district, including the name of each person, his or her age at the time of death, place of death, date of interment, the interment plot, and the name and address of the funeral director.

(b) A district may keep the records required by this section in their original form or by any other method that can produce an accurate reproduction of the original record.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9065. Endowment care fund**

(a) The board of trustees shall create an endowment care fund.

(b) The board of trustees shall require a payment into the endowment care fund for each interment right sold. The amount of the payment shall be not less than the minimum amounts set by Section 8738.

(c) The board of trustees may require a payment into the endowment care fund for each interment where no payment has previously been made. The amount of the payment shall be not less than the minimum amounts set by Section 8738.

(d) The board of trustees may pay into the endowment care fund any money from the district's general fund and from any other sources which is necessary or expedient to provide for the endowment care of the cemeteries owned by the district.

(e) The board of trustees shall not spend the principal of the endowment care fund.

(f) The board of trustees shall cause the income from the endowment care fund to be deposited in an endowment income fund and spent solely for the care of the cemeteries owned by the district.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9066. Investment of endowment care fund principal**

The board of trustees shall cause the principal of the endowment care fund to be invested and reinvested in any of the following:

(a) Securities and obligations designated by Section 53601 of the Government Code.

(b) Obligations of the United States or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest. These shall not be limited to maturity dates of one year or less.

(c) Obligations issued under authority of law by any county, municipality, or school district in this state for which are pledged the faith and credit of that county, municipality, or school district for the payment of principal and interest, if within 10 years immediately preceding the investment that county, municipality, or school district was not in default for more than 90 days in the payment of principal or interest upon any legally authorized obligations issued by it.

(d) Obligations of the State of California or those for which the faith and credit of the State of California are pledged for the payment of principal and interest.

(e) Interest-bearing obligations issued by a corporation organized under the laws of any state, or of the United States, provided that they bear a Standard and Poor's financial rating of AAA at the time of the investment.

(f) Certificates of deposit or other interest-bearing accounts in any state or federally chartered bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341). Amended Stats 2009 ch 332 § 75.4 (SB 113), effective January 1, 2010.

#### **§ 9067. Investment of funds in certain securities and obligations**

The board of trustees may cause the funds deposited in the endowment income fund pursuant to subdivision (f) of Section 9065 that are not required for the immediate care of the cemeteries owned by the district to be invested in the securities and obligations designated by Section 53601 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

#### **§ 9068. Schedule of fees**

(a) The board of trustees shall adopt a schedule of fees for interments in cemeteries owned by the district and for other necessary and convenient services.

(b) The board of trustees shall also adopt a schedule of fees for nonresidents. The board of trustees shall set these fees at an amount that at least equals the amount of fees charged to residents or taxpayers and shall include a nonresident fee of at least 15 percent of that amount.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9069. Abandonment of plot**

(a) A district may seek the abandonment of an interment plot in a cemetery owned by the district pursuant to this section.

(b) The board of trustees shall file a petition with the superior court of the principal county which contains all of the following:

(1) An identification of the interment plot that the district desires to be declared abandoned.

(2) A statement that the district has made a diligent search to locate the present owner of the interment plot.

(3) A statement that the present owner of the interment plot is unknown to the district.

(4) A statement that, to the best knowledge of the district, at least 50 years have passed since any portion of the interment plot has been used for interment purposes.

(5) A statement that, after a reasonable physical investigation of the interment plot, the interment plot has not been used for the interment of human remains.

(6) A request that the court declare the interment plot abandoned.

(c) Upon the filing of a petition pursuant to subdivision (b), the clerk of the superior court shall set a time for a hearing on the petition.

(d) After the clerk of the superior court has set the hearing, the district shall give notice of the court's hearing. The notice shall identify the interment plot that the district desires to be declared abandoned, state the name and address of the last known owner of the interment plot, state that the court will hold a hearing to determine whether to declare the interment plot abandoned, and state the time and place of the court's hearing. The district shall give notice of the court's hearing by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district at least 10 days before the hearing. The district shall post the public notice in at least three public places within the jurisdiction of the district, at least 10 days before the hearing. One of the public places shall be at the interment plot that the district desires to be declared abandoned, and one of the public places shall be at the offices of the district. In addition, the district shall mail the notice by certified mail, return receipt requested, at least 10 days before the hearing to the last known owner of the interment plot.

(e) At the time set for the hearing, the superior court shall hear and consider any evidence that is introduced in favor or, and any objections to, the abandonment of the interment plot. The court may continue its hearing from time to time. The court shall determine from the evidence presented whether the facts stated in the district's petition are true. The court shall dismiss any portion of the district's petition if the court determines that any of the facts stated in that portion of the petition are not true, or if the court determines the identity of the present owner of the interment plot. If the court determines that the facts stated in the district's petition are true, the court may order that the interment plot shall be deemed abandoned and full title shall revert to the district. The superior court's order shall not become final until one year after the date on which the court made its order.

(f) Within 30 days after the date on which the superior court made its order, the district shall give notice of the court's order. The notice shall identify the interment plot that the district desires to be declared abandoned, state the name and address of the last known owner of the interment plot, and state the date on which the court's order will be final. The district shall give notice of the court's order by publishing a notice pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation within the jurisdiction of the district. The district shall post the public notice in at least three public places within the jurisdiction of the district. One of the public places shall be at the interment plot that the district desires to be declared abandoned, and one of the public places shall be at the offices of the district. In addition, the district shall mail the notice by certified mail, return receipt requested, to the last known owner of the interment site.

(g) At any time before the superior court's order becomes final, any person may petition the court to reopen the proceeding. Upon receiving a petition and after giving notice to the district, the court may reopen the proceeding. The court may hear and consider any additional evidence regarding the facts in the district's petition. The court may amend its previous order. If the court determines that any of the facts stated in any portion of the district's petition are not true, or if the court determines the identity of the present owner of the interment plot, the court shall dismiss that portion of the district's petition.

(h) The interment plot shall be deemed abandoned on the date on which the superior court's order becomes final. The district shall record the court's order in the office of the county recorder of the county in

which the interment plot is located. Upon recordation of the court's order, the district is the owner of the interment plot and the district may resell the interment rights.

(i) If, after the proceedings taken pursuant to this section, the district discovers the presence of human remains in the interment plot, the district shall make reasonable efforts to identify the remains. The district shall close and appropriately mark the interment plot. The district shall offer the new owner of the interment rights in that interment plot comparable interment rights in another interment plot. The district shall not be liable for any claims for damages if the district has proceeded pursuant to this section.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

## CHAPTER 5.5 INTERMENT RIGHTS

### Section

9069.10. Limitation on interment right

9069.15. Authority to issue order to remove remains; Retention of records

9069.20. Interment right as transferable property interest; Designation of person who may be interred; Designation of successor owner

9069.25. Transfer of interment right on death if no disposition by devise or designation; Waiver of interment right

9069.30. Liability of public cemetery district

9069.35. Written affidavit of purported successor owner of interment right

9069.40. Notice of interment rights and transfer policies at time of sale

**HISTORY:** Added Stats 2016 ch 592 § 2 (SB 1179), effective January 1, 2017.

### § 9069.10. Limitation on interment right

An interment right does not include the right for disinterment of human remains except on consent of the cemetery district and the written consent of the surviving spouse, child, parent, or sibling, in that order of priority.

**HISTORY:** Added Stats 2016 ch 592 § 2 (SB 1179), effective January 1, 2017.

### § 9069.15. Authority to issue order to remove remains; Retention of records

(a) This chapter does not apply to, or prohibit, the removal of remains from one plot to another in the same cemetery or the removal of remains by a cemetery district upon the written order of any of the following:

- (1) The superior court of the county in which the cemetery is located.
- (2) The coroner having jurisdiction of the location of the cemetery.
- (3) The health department having jurisdiction of the cemetery.

(b) The cemetery district shall maintain a duplicate copy of an order pursuant to subdivision (a).

(c) The cemetery district shall retain a true and correct record of a removal of remains pursuant to subdivision (a) that includes all of the following:

- (1) The date the remains were removed.
- (2) The name and the age at death of the person whose remains were removed if available.
- (3) The cemetery and plot from which the remains were removed.
- (4)(A) If the removed remains are reinterred, the plot number, cemetery name, and location to which the remains were reinterred.
- (B) If the removed remains are disposed of other than by being reinterred, a record of the alternate disposition.
- (5) If the removed remains are reinterred at the cemetery, the date of reinterment.

(d) The person making the removal shall deliver to the cemetery district operating the cemetery from which the remains were removed a true, full, and complete copy of the record containing all of the information specified in subdivision (c).

**HISTORY:** Added Stats 2016 ch 592 § 2 (SB 1179), effective January 1, 2017.

### § 9069.20. Interment right as transferable property interest; Designation of person who may be interred; Designation of successor owner

(a) An interment right provides a transferable property interest to the person listed as the owner in the records of the cemetery district, subject to any written designation to the contrary signed by the owner and deposited with the cemetery district, or to the owner's successor pursuant to either this section or subdivision (a) of Section 9069.25. An interment right shall not be construed as conferring title to the property burdened by the transferable property interest.

(b) The owner of record of an interment right may designate in writing the person or persons, other than the owner of record, who may be interred in the plot to which the owner holds the interment right.

(c) The owner of an interment right shall, at the time of purchase, designate a successor owner or owners of the interment right in a signed written designation deposited with the district.

(d) Use of an interment right transferred from the owner to a successor pursuant to subdivision (c) shall be made in compliance with applicable provisions of state and local law, and of applicable requirements or policies established by the district board of trustees.

**HISTORY:** Added Stats 2016 ch 592 § 2 (SB 1179), effective January 1, 2017.

#### **§ 9069.25. Transfer of interment right on death if no disposition by devise or designation; Waiver of interment right**

(a) If the owner of an interment right dies without making a valid and enforceable disposition of the interment right by a specific devise in a testamentary device, or by a written designation pursuant to subdivision (c) of Section 9069.20, the interment right shall pass according to the laws of intestate succession as set forth in Sections 6400 to 6413, inclusive, of the Probate Code. In the event that the owner has no heirs at law, the district shall follow the abandonment procedures established under Section 9069.

(b) A surviving spouse, registered domestic partner, child, parent, or heir who has an interment right pursuant to this section may waive that interment right in favor of any other relative of the deceased owner or spouse of a relative of the deceased owner.

**HISTORY:** Added Stats 2016 ch 592 § 2 (SB 1179), effective January 1, 2017.

#### **§ 9069.30. Liability of public cemetery district**

When a public cemetery district acts to transfer ownership rights or make an interment on the basis of the affidavit, given under penalty of perjury pursuant to Section 9069.35, the district, and any employee or trustee of the district, shall not be liable for any claims, losses, or damages asserted in any action unless the district had actual knowledge that the facts stated in writing are false.

**HISTORY:** Added Stats 2016 ch 592 § 2 (SB 1179), effective January 1, 2017.

#### **§ 9069.35. Written affidavit of purported successor owner of interment right**

A person who purports to be the successor owner of an interment right shall execute a written affidavit declaring, under penalty of perjury, all of the following:

(a) He or she is the person entitled to succeed to the interment right pursuant to Section 9069.20.

(b) He or she has exerted all reasonable efforts to find other persons who may have an equal or higher claim to succeed to the interment right.

(c) He or she is unaware, to the best of his or her knowledge, of any opposition challenging his or her right to succeed to the interment right.

**HISTORY:** Added Stats 2016 ch 592 § 2 (SB 1179), effective January 1, 2017.

#### **§ 9069.40. Notice of interment rights and transfer policies at time of sale**

Upon the sale to a person of a plot in a cemetery within a district, the district shall notify the purchaser, in writing, of any interment rights, that this chapter governs the succession of ownership of the interment rights, and the district's duly adopted policies, rules, and regulations governing the use, sale, or other transfer of interment rights.

**HISTORY:** Added Stats 2016 ch 592 § 2 (SB 1179), effective January 1, 2017.

### **CHAPTER 6 FINANCES**

#### **Section**

- 9070. Adoption of budget
- 9071. Restricted reserves
- 9072. Appropriations limit; Necessary determinations for following year
- 9073. Allocation of property tax revenue
- 9074. Sources of funding
- 9075. Claims against a district
- 9076. Payment of claims against district
- 9077. Withdrawal of funds from county treasurer
- 9078. Revolving fund
- 9079. Audits and financial reports

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).



**§ 9070. Adoption of budget**

(a) On or before August 30 of each year, the board of trustees shall adopt a final budget, which shall conform to the accounting and budgeting procedures for special districts contained in Subchapter 3 (commencing with Section 1031.1) of, and Article 1 (commencing with Section 1121) of Subchapter 4 of Division 2 of Title 2 of the California Code of Regulations.

(b) The board of trustees may divide the annual budget into categories, including, but not limited to:

- (1) Maintenance and operation.
- (2) Employee compensation.
- (3) Interest and redemption for indebtedness.
- (4) Restricted reserves for the following categories:
  - (A) Endowment income fund.
  - (B) Capital outlay.
  - (C) Pre-need.
  - (D) Contingencies.
- (5) Unallocated general reserve.

(c) The board of trustees shall forward a copy of the final budget to the auditor of each county in which the district is located.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9071. Restricted reserves**

(a) In its annual budget, the board of trustees may establish one or more restricted reserves. When the board of trustees establishes a restricted reserve, it shall declare the exclusive purposes for which the funds in the reserve may be spent. The funds in the restricted reserve shall be spent only for the exclusive purposes for which the board of trustees established the restricted reserve. The reserves shall be maintained according to generally accepted principles.

(b) Any time after the establishment of a restricted reserve, the board of trustees may transfer any funds to that restricted reserve.

(c) If the board of trustees finds that the funds in a restricted reserve are no longer required for the purpose for which the restricted reserve was established, the board of trustees may, by a four-fifths vote of the total membership of the board of trustees, discontinue the restricted reserve or transfer the funds that are no longer required from the restricted reserve to the district's general fund.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9072. Appropriations limit; Necessary determinations for following year**

(a) On or before July 1 of each year, the board of trustees shall adopt a resolution establishing its appropriations limit and make other necessary determinations for the following fiscal year pursuant to Article XIII B of California Constitution and Division 9 (commencing with Section 7900) of the Government Code.

(b) Pursuant to subdivision (c) of Section 9 of Article XIII B of the California Constitution, this section shall not apply to a district that existed on January 1, 1978, and that did not, as of the 1977-78 fiscal year, levy an ad valorem tax on property in excess of twelve and one-half cents (\$0.125) per one hundred dollars (\$100) of assessed value.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9073. Allocation of property tax revenue**

The auditor of each county in which a district is located shall allocate to the district its share of property tax revenue pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

**§ 9074. Sources of funding**

(a) A district may accept any grants, goods, money, property, revenue, or services from any federal, state, regional, or local agency or from any person for any lawful purpose of the district.

(b) Except as provided by Section 9077, all moneys received or collected by a district shall be paid into a separate fund in the county treasury on or before the 10th day of the month following the month in which the district received or collected the money.

(c) In addition to any other existing authority, a district may borrow money and incur indebtedness pursuant to Article 7 (commencing with Section 53820), Article 7.4 (commencing with Section 53835), Article 7.5 (commencing with Section 53840), Article 7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341). Amended Stats 2009 ch 332 § 75.5 (SB 113), effective January 1, 2010; Stats 2010 ch 699 § 25.2 (SB 894), effective January 1, 2011.

### **§ 9075. Claims against a district**

All claims for money or damages against a district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9076. Payment of claims against district**

(a) All claims against a district shall be audited, allowed, and paid by the board of trustees by warrants drawn on the county treasurer.

(b) As an alternative to subdivision (a), the board of trustees may instruct the county treasurer to audit, allow, and draw his or her warrant on the county treasury for all legal claims presented to him or her and authorized by the board of trustees.

(c) The county treasurer shall pay the warrants in the order in which they are presented.

(d) If a warrant is presented for payment and the county treasurer cannot pay it for want of funds in the account on which it is drawn, the treasurer shall endorse the warrant, "NOT PAID BECAUSE OF INSUFFICIENT FUNDS" and sign his or her name and the date and time the warrant was presented. From that time until it is paid, the warrant bears interest at the maximum rate permitted pursuant to Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9077. Withdrawal of funds from county treasurer**

(a) Notwithstanding Section 9076, a district that has total annual revenues greater than five hundred thousand dollars (\$500,000) may withdraw its funds from the control of the county treasurer pursuant to this section.

(b) The board of trustees shall adopt a resolution that does each of the following:

(1) States its intent to withdraw its funds from the county treasury.

(2) Adopts a procedure for the appointment of a district treasurer. The board of trustees may appoint the district treasurer. The board of trustees may appoint the district treasurer, or the board of trustees may delegate the appointment of the district to the district's general manager. The district treasurer may be a member of the board of trustees, the secretary of the board of trustees, the general manager, or a district employee.

(3) Fixes the amount of the bond for the district treasurer and other district employees who will be responsible for handling the district's finances.

(4) Adopts a system of accounting and auditing that shall completely and at all times show the district's financial condition. The system of accounting and auditing shall adhere to generally accepted accounting principles.

(5) Adopts a procedure for drawing and signing warrants, provided that the procedure adheres to generally accepted accounting principles. The procedures shall provide that bond principal and salaries shall be paid when due. The procedure may provide that warrants to pay claims and demands need not be approved by the board of trustees before payment if the district treasurer determines that the claims and demands conform to the district's approved budget.

(6) Designates a bank or a savings and loan association as the depository of the district's funds. A bank or savings and loan association may act as a depository, paying agent, or fiscal agency for the holding or handling of the district's funds, notwithstanding the fact that a member of the board of trustees whose funds are on deposit in that bank or savings and loan association is an officer, employee, or stockholder of that bank or saving and loan association, or of a holding company that owns any of the stock of that bank or savings and loan association.

(c) The board of trustees and the board of supervisors of the principal county shall determine a mutually acceptable date for the withdrawal of the district's funds from the county treasury, not to exceed 15 months from the date on which the board of trustees adopts its resolution.

(d) In implementing this section, the district shall comply with Article 1 (commencing with Section 53600) and Article 2 (commencing with Section 5360) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. Nothing in this section shall include the district treasurer from depositing the district's funds in the county treasury of the principal county or the State Treasury pursuant to Article 11 (commencing with Section 16429.1) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(e) The district treasurer shall make annual or more frequent written reports to the board of trustees, as the board of trustees shall determine, regarding the receipts and disbursements and balances in the accounts controlled by the district treasurer. The district treasurer shall sign the reports and file them with the secretary.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9078. Revolving fund**

A district may, by resolution, establish a revolving fund pursuant to Article 15 (commencing with Section 53950) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. The maximum amount of the revolving fund shall not exceed either of the following:

(a) One thousand dollars (\$1,000) if the purpose of the revolving fund is to make change and pay small bills directly.

(b) One hundred ten percent of one-twelfth of the district's adopted budget for the current fiscal year if the purpose of the revolving fund is to pay any authorized expenditures of the district.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341). Amended Stats 2009 ch 332 § 75.7 (SB 113), effective January 1, 2010.

### **§ 9079. Audits and financial reports**

(a) The board of trustees shall provide for regular audits of the district's accounts and records and the district's endowment care fund pursuant to Section 26909 of the Government Code.

(b) The board of trustees shall provide for the annual financial reports to the Controller pursuant to Article 9 (commencing with Section 53890) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

## **CHAPTER 7 ALTERNATIVE REVENUES**

### **Section**

- 9080. Authority to raise revenue
- 9081. Levying special taxes
- 9082. General obligation bonds
- 9083. Additional fees authorized

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9080. Authority to raise revenue**

Whenever a board of trustees determines that the amount of revenues available to the district or any of its zones is inadequate to meet the costs of providing facilities, programs, projects, and services, the board of trustees may raise revenues pursuant to this chapter or any other provision of law.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9081. Levying special taxes**

A district may levy special taxes pursuant to either of the following:

(a) Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. The special taxes shall be applied uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved property.

(b) The Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9082. General obligation bonds**

(a) Whenever a board of trustees determines that it is necessary to incur a general obligation bond indebtedness for the acquisition or improvement of real property, the board of trustees may proceed pursuant to Article 11 (commencing with Section 5790) of Chapter 4 of Division 5 of the Public Resources Code. For the purposes of that article, the board of trustees shall be considered the board of directors of the district.

(b) Notwithstanding subdivision (a), a district shall not incur indebtedness that exceeds 2 percent of the assessed value of all taxable property in the district at the time the bonds are issued.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9083. Additional fees authorized

(a) In addition to the other fees authorized by this part, a board of trustees may charge a fee to cover the cost of any other service that a district provides or the cost of enforcing any regulation for which the fee is charged. No fee charged pursuant to this section shall exceed the costs reasonably borne by the district in providing the service or enforcing the regulation for which the fee is charged.

(b) Notwithstanding Section 6103 of the Government Code, a board of trustees may charge a fee authorized by this section to other public agencies.

(c) A board of trustees may charge residents or persons who pay property taxes on property located in the district a fee authorized by this section that is less than the fee that it charges to nonresidents or nontaxpayers.

(d) A board of trustees may authorize district employees to waive the payment, in whole or part, of a fee authorized by this section when the board of trustees determines that payment would not be in the public interest. Before authorizing any waiver, the board of trustees shall adopt a resolution that specifies the policies and procedures governing waivers.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

## CHAPTER 8 ZONES

### Section

- 9090. Formation of zones; Adoption of resolution; Petitions; Public hearings
- 9091. Consideration of protests; Determination not to form zones
- 9092. Changing boundaries of, or dissolving, zones
- 9093. Services and powers of zones

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9090. Formation of zones; Adoption of resolution; Petitions; Public hearings

(a) Whenever a board of trustees determines that it is in the public interest to provide different services, to provide different levels of services, or to raise additional revenues within specific areas of the district, it may form one or more zones pursuant to this chapter.

(b) The board of trustees shall initiate proceedings for the formation of a new zone by adopting a resolution that does all of the following:

- (1) States that the proposal is made pursuant to this chapter.
- (2) Sets forth a description of the boundaries of the territory to be included in the zone.
- (3) States the different services, the different levels of services, or the additional revenues that the district will provide.
- (4) Sets forth the methods by which those services or level of service will be financed.
- (5) States the reasons for forming the zone.
- (6) Proposes a name or number for the zone.

(c) A proposal to form a new zone may also be initiated by a petition signed by not less than 10 percent of the registered voters residing within the proposed zone. The petition shall contain all of the matters required by subdivision (b).

(d) Upon the adoption of a resolution or the receipt of a valid petition, the board of trustees shall fix the date, time, and place for the public hearing on the formation of the zone. The district shall publish notice of the hearing, including the information required by subdivision (b), pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation in the district. The district shall mail the notice at least 45 days before the date of the hearing to all owners of property within the proposed zone. The district shall post the notice in at least three public places within the territory of the proposed zone.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### § 9091. Consideration of protests; Determination not to form zones

(a) At the hearing, the board of trustees shall hear and consider any protests to the formation of a zone pursuant to this chapter. The board of trustees shall terminate the proceedings, if at the conclusion of the hearing, it determines either of the following:

- (1) More than 50 percent of the total number of voters residing within the proposed zone have filed and not withdrawn written objections to the formation.

(2) Property owners who own more than 50 percent of the assessed value of all taxable property within the proposed zone have filed written and not withdrawn objections to the formation.

(b) If the board of trustees determines that the written objections have been filed and not withdrawn by 50 percent or less of those voters or property owners, then the board of trustees may proceed to form the zone.

(c) If the resolution or petition for formation of a zone proposes that the zone use special taxes, special benefit assessments, fees for property-related services, or general obligation bonds to finance its purposes, the board of trustees shall proceed according to law. If the voters or property owners do not approve those funding methods, the zone shall not be formed.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9092. Changing boundaries of, or dissolving, zones**

(a) A board of trustees may change the boundaries of a zone or dissolve a zone by following the procedures in Sections 9090 and 9091.

(b) Except as provided in Section 56886 of the Government Code, a local agency formation commission shall have no power or duty to review and approve or disapprove a proposal to form a zone, a proposal to change the boundaries of a zone, or a proposal to dissolve a zone.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

### **§ 9093. Services and powers of zones**

(a) As determined by the board of trustees and pursuant to the requirements of this part, a zone may provide any service at any level or levels within its boundaries that the district may provide.

(b) As determined by the board of trustees and pursuant to the requirements of this part, a zone may exercise any fiscal powers within its boundaries that the district may exercise.

(c) Any special taxes, special benefit assessments, fees, or general obligation bonds which are intended solely for the support of projects, services, or programs within a zone shall be levied, assessed, and charged within the boundaries of that zone.

**HISTORY:** Added Stats 2003 ch 57 § 5 (SB 341).

## **PART 5 MAUSOLEUMS AND COLUMBARIUMS**

### **Chapter**

1. General Provisions
2. Enforcement
3. Permits and Plans
4. Inspection and Approval
5. Construction
6. Penalties

**HISTORY:** Added Stats 1955 ch 1349 § 2. Former Part 5, also entitled "Mausoleums and Columbariums", consisting of §§ 9501–9677, was enacted Stats 1939 ch 60 and repealed Stats 1955 ch 1349 § 1.

## **CHAPTER 1 GENERAL PROVISIONS**

### **Section**

9501. Citation of part
9502. Statutory purpose
9503. Statutory construction
9504. "Mausoleum"
- 9504.5. "Private mausoleum or columbarium"
9505. "Companion crypts" or "nest of crypts"
9506. "Columbarium"
9507. "Uniform Building Code"
9508. "The Uniform Plumbing Code"
9509. "National Electrical Code"
9510. "Incombustible Material"
9511. "Type I Construction"
9512. Exclusion of underground structures
9513. Cemeteries and public cemetery districts governed by part

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### **§ 9501. Citation of part**

This part shall be known and may be cited as the Mausoleum and Columbarium Law.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1957 ch 796 § 1; Stats 1993 ch 350 § 1 (AB 654).



**§ 9502. Statutory purpose**

The purpose of this part is to insure the durability and permanence of mausoleums and columbariums by requiring that they be constructed of such material and workmanship as determined by modern mausoleum-columbarium engineering science, the minimum requirements for which are set forth in this part.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9503. Statutory construction**

Unless the provision or the context otherwise requires, the definitions and general provisions set forth in this chapter govern the construction of this part.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9504. “Mausoleum”**

“Mausoleum” includes any building or structure, used or intended to be used, for the interment of human remains. A columbarium may be built within a mausoleum.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 2 (AB 654).

**§ 9504.5. “Private mausoleum or columbarium”**

“Private mausoleum or columbarium” shall be a freestanding structure which:

- (a) Is constructed for use by the members of any one group, and not for the sale of space therein to any other person.
- (b) Does not contain crypts for the interment of more than 12 uncremated human remains, and a columbarium, niches for the interment of not more than 20 cremated human remains.
- (c) Is not constructed for occupancy by any person except in the course of making an interment.

**HISTORY:** Added Stats 1994 ch 1152 § 6 (AB 3352).

**§ 9505. “Companion crypts” or “nest of crypts”**

“Companion crypts” or “nest of crypts” means two or more crypts entered through a single crypt opening.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9506. “Columbarium”**

“Columbarium” includes any building or structure, used or intended to be used, for the interment of cremated human remains.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9507. “Uniform Building Code”**

“Uniform Building Code” means the 1991 Edition of the Uniform Building Code, with 1992 amendments, adopted and published by the International Conference of Building Officials.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1957 ch 1635 § 6; Stats 1969 ch 737 § 1; Stats 1993 ch 350 § 3 (AB 654).

**§ 9508. “The Uniform Plumbing Code”**

“The Uniform Plumbing Code” means the 1991 Edition of the Plumbing Code, with 1992 amendments, adopted and published by the International Association of Plumbing and Mechanical Officials.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1969 ch 737 § 2; Stats 1993 ch 350 § 4 (AB 654).

**§ 9509. “National Electrical Code”**

“National Electrical Code” means the 1990 Edition of the National Electrical Code, with 1992 amendments, adopted and published by the National Fire Protection Association.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1957 ch 1635 § 7; Stats 1969 ch 737 § 3; Stats 1993 ch 350 § 5 (AB 654).

**§ 9510. “Incombustible Material”**

“Incombustible Material” means and includes any material having an ignition temperature higher than 1,000 degrees Fahrenheit.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9511. “Type I Construction”**

“Type I Construction” includes the type of construction designated and specified as Type I Building Construction in the Uniform Building Code.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9512. Exclusion of underground structures**

The provisions of this part shall not apply to any structure or building used or intended to be used for the interment of human remains all portions of which are below the ground.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9513. Cemeteries and public cemetery districts governed by part**

(a) The provisions of this part shall apply to any cemetery that acquires, constructs, improves, maintains, or repairs a mausoleum or columbarium.

(b) The provisions of this part shall apply to any public cemetery district that acquires, constructs, improves, maintains, or repairs a columbarium.

**HISTORY:** Added Stats 1999 ch 207 § 3 (SB 954).

**CHAPTER 2 ENFORCEMENT**

## Section

- 9525. Enforcement within city by “building department”
- 9526. Enforcement within county, but outside city
- 9527. Designation of enforcement agency
- 9528. Enforcement in city or county without designated agency

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9525. Enforcement within city by “building department”**

The building department of every city or city and county shall enforce the provisions of this part within such city or city and county. “Building department” or “department” means the department, bureau, or officer charged with the enforcement of laws or ordinances regulating the erection, construction or alteration of buildings.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9526. Enforcement within county, but outside city**

The department, officer or officers of a county who are charged with the enforcement of laws or ordinances regulating the erection, construction or alteration of buildings, shall enforce the provisions of this part within such county but outside the territorial limits of any city.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9527. Designation of enforcement agency**

Any city or county may, by ordinance, designate any department or officer to enforce any portion of this part.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9528. Enforcement in city or county without designated agency**

In any city where there is no department or officer charged with or designated for the enforcement of this part, the appropriate department, officer or officers of the county in which such city is located shall enforce this part.

In any county where there is no department or officer charged with or designated for the enforcement of this part, this part shall be enforced by the county engineer, if there is a county engineer, and if not, then by the county surveyor.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

## CHAPTER 3 PERMITS AND PLANS

### Article

1. General Provisions.
2. Application, Permit and Certificate of Occupancy.
3. Cancellation of Permit.
4. Expiration of Permit.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

## ARTICLE 1 GENERAL PROVISIONS

### Section

9550. Necessity for permit

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### § 9550. Necessity for permit

It is unlawful for any person to construct, or cause or permit to be constructed upon any property belonging to or controlled by him, any mausoleum or columbarium, or to make any alterations or changes or do any reconstruction work upon, in or to any building or structure for use as a mausoleum or columbarium without first having applied for and procured a separate building permit for each such mausoleum, columbarium, building or structure, or alteration, from the department or official charged with the enforcement of this part.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

## ARTICLE 2 APPLICATION, PERMIT AND CERTIFICATE OF OCCUPANCY

### Section

9560. Application for permit
9561. Plans, specifications, approval, and consent
9562. Issuance of permit
9563. Approval of changes in plans, specifications, or statements
9564. Absence of approval of violation
9565. Keeping copy of information on premises during work

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### § 9560. Application for permit

A person desiring a permit shall file a written application with the department or official charged with the enforcement of this part on forms furnished by it. The application shall:

- (a) Show in detail the proposed erection, construction, reconstruction, or alteration.
- (b) State the name and address of the owner.
- (c) State the name and address of the architect, structural engineer, or contractor, if any.
- (d) State that the plans and specifications are true and contain a correct description of the proposed work.
- (e) Give any other data or information required by the department.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### § 9561. Plans, specifications, approval, and consent

The application shall be accompanied by:

- (a) Two full, true and complete sets of plans showing in detail the work proposed and whether it is for new work, reconstruction, or alteration.
- (b) Two sets of specifications describing the proposed work.
- (c) The plans of the lot or land on which the building is proposed to be erected, reconstructed, or altered.
- (d) The written approval of the plans and specifications and consent to the proposed erection, construction, reconstruction, or alteration, executed by the cemetery authority owning or operating the cemetery in which the work is to be performed.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1957 ch 796 § 3.

### § 9562. Issuance of permit

The department shall cause all plans, specifications, and statements to be examined, and, if they conform to the provisions of this part, shall issue a permit.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### **§ 9563. Approval of changes in plans, specifications, or statements**

The department may, from time to time, approve changes in any plans, specifications, or statements, previously approved if the changes are in conformity with the provisions of this part.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### **§ 9564. Absence of approval of violation**

The issuance or granting of a permit or approval is not a permit or approval of a violation of any provision of this part.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### **§ 9565. Keeping copy of information on premises during work**

A true copy of the plans, specifications, and other information submitted or filed upon which a permit is issued, with the approval of the department with which they are filed, stamped or written on the copy, and signed by the officer or officers authorizing the permit, shall be kept upon the premises of the building for which the permit is issued from the commencement of the work until final completion and acceptance, and shall be subject to inspection at all times by proper authorities.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

## **ARTICLE 3 CANCELLATION OF PERMIT**

Section

9575. Grounds for cancellation

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### **§ 9575. Grounds for cancellation**

In the case of any refusal, or neglect of the person to whom a permit or approval has been issued to comply with all of the provisions of this part, or in case any false statement or misrepresentation is made in any of the plans, specifications or statements submitted or filed for the permit or approval, the department shall revoke or cancel any permit or approval it has previously issued.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

## **ARTICLE 4 EXPIRATION OF PERMIT**

Section

9580. Expiration of permit by limitation; New permit

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### **§ 9580. Expiration of permit by limitation; New permit**

Every permit or approval under which no work is done within one year from the date of issuance expires by limitation and a new permit shall be obtained before the work may proceed.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1957 ch 796 § 4; Stats 1993 ch 350 § 7 (AB 654).

## **CHAPTER 4 INSPECTION AND APPROVAL**

Section

9590. Notice of completion

9591. Inspection of work; Certificate of occupancy

9592. Temporary certificate of occupancy

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### **§ 9590. Notice of completion**

When the work is completed in accordance with plans, specifications, and statements previously made and upon which the permit or approval was issued, the owner or contractor shall notify the department.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9591. Inspection of work; Certificate of occupancy**

The department shall inspect or cause the work to be inspected, and shall issue a certificate of occupancy if the work has been performed in accordance with the approved plans, specifications, and statements, and in conformity with the provisions of this part; and if not, it shall refuse to issue the certificate.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9592. Temporary certificate of occupancy**

When it is found that the building or structure is structurally complete, upon request, a temporary certificate of occupancy shall be issued by the department for the use of a portion or portions of a mausoleum or columbarium for interment of human remains prior to the completion of the entire building or structure.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**CHAPTER 5 CONSTRUCTION**

## Article

1. General Provisions.
2. Structural and Material Requirements of Community Mausoleums and Columbariums.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**ARTICLE 1 GENERAL PROVISIONS**

## Section

9600. Minimum requirements
- 9600.5. Adoption of regulations for private mausoleums or columbariums
- 9600.6. Construction of private mausoleums or columbariums
9601. Type I Construction
9602. Conformity to Uniform Plumbing Code
9603. Conformity to National Electrical Code

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9600. Minimum requirements**

No mausoleum or columbarium shall be constructed and no existing building or structure shall be altered for use as a mausoleum or columbarium unless the entire building or structure, including any portion to be used for any other purpose, is in conformity with the minimum requirements set forth in this chapter. Any addition to or alteration of any existing mausoleum or columbarium shall conform to the minimum requirements set forth in this chapter.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9600.5. Adoption of regulations for private mausoleums or columbariums**

The Cemetery and Funeral Bureau may, in addition to the construction methods and standards allowed in this chapter, adopt regulations for the construction of private mausoleums or private columbariums, which at a minimum, include the following:

- (a) Standards for design and construction for seismic load protection.
- (b) Methods of construction, including solid granite construction.
- (c) Methods of sealing to prevent leakage from crypts.
- (d) Ventilation of crypts.
- (e) Types of incombustible materials which may be used in construction.

**HISTORY:** Added Stats 1994 ch 1152 § 7 (AB 3352). Amended Stats 2000 ch 568 § 259 (AB 2888).

**§ 9600.6. Construction of private mausoleums or columbariums**

Private mausoleums or columbariums may be constructed in conformance with the methods and standards set forth in this chapter or in conformance with the construction methods and standards as adopted by the Cemetery and Funeral Bureau.

**HISTORY:** Added Stats 1994 ch 1152 § 8 (AB 3352). Amended Stats 2000 ch 568 § 260 (AB 2888).

**§ 9601. Type I Construction**

All mausoleums or columbariums shall be of Type I Construction as specified in the Uniform Building Code, except as otherwise provided in this chapter.



**HISTORY:** Added Stats 1955 ch 1349 § 2.

### § 9602. Conformity to Uniform Plumbing Code

Plumbing in all mausoleums or columbariums shall conform to the provisions of the Uniform Plumbing Code.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

### § 9603. Conformity to National Electrical Code

Electrical work in all mausoleums or columbariums shall conform to the provisions of the National Electrical Code.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

## ARTICLE 2 STRUCTURAL AND MATERIAL REQUIREMENTS OF COMMUNITY MAUSOLEUMS AND COLUMBARIUMS

#### Section

9625.	Earthquake regulations
9626.	Incombustible materials
9627.	Structural framework
9628.	Floor live load
9629.	Footings
9630.	Floor slabs
9631.	Waterproofing walls
9632.	Crypt walls and floor slabs
9633.	Crypt partitions; Vents; Columbarium partitions
9634.	Crypt live load
9635.	Crypt seal panels
9636.	Marble floors
9637.	Veneers
9638.	Exterior trim
9639.	Joints
9640.	Grout
9641.	Masonry veneer
9642.	Base, architraves, wainscoting, and other vertical work
9643.	Interior and exterior fastenings
9644.	Exterior materials
9645.	Materials used during national emergency
9646.	Roofs
9647.	Skylight frames

**HISTORY:** Added Stats 1955 ch 1349 § 2. The heading of Article 2, which formerly read "Structural and Material Requirements," amended to read as above by Stats 1957 ch 796 § 5.

### § 9625. Earthquake regulations

Every mausoleum or columbarium shall be designed and constructed to conform to the earthquake provisions of the Uniform Building Code.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1957 ch 796 § 6; Stats 1993 ch 350 § 8 (AB 654).

### § 9626. Incombustible materials

Except as otherwise provided in this chapter, all materials used in the construction, ornamentation, or embellishment of mausoleums or columbariums shall be incombustible. This section shall not apply to crypt vents, temporary openings or partitions, interior doors, fixtures, furniture, or furnishings.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1957 ch 796 § 7; Stats 1993 ch 350 § 9 (AB 654).

### § 9627. Structural framework

All structural framework shall be of cast-in-place reinforced concrete, or of structural steel sections, or of concrete over metal decking; provided, however, all footings, bearing walls, floor slabs and roofs shall be of cast-in-place reinforced concrete or of concrete over metal decking only. All structural framework shall be designed and constructed in accordance with the Uniform Building Code.

**HISTORY:** Added Stats 1957 ch 1635 § 9. Amended Stats 1993 ch 350 § 10 (AB 654).

### § 9628. Floor live load

All floors shall be designed and constructed for a live load of not less than 100 pounds per square foot.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9629. Footings**

Footings shall be designed and constructed to conform to the requirements of the Uniform Building Code or specifications of a licensed geotechnical engineer.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 11 (AB 654).

**§ 9630. Floor slabs**

Floor slabs placed on earth shall be constructed of reinforced concrete designed by a licensed structural or civil engineer to include control joints at appropriate intervals to minimize cracks as well as appropriate vapor and moisture barriers as specified by a licensed geotechnical engineer.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 12 (AB 654).

**§ 9631. Waterproofing walls**

Where any wall is constructed against a bank of earth, rock, or other porous material, or where crypts are adjacent to an outside building wall below grade, the wall shall be adequately waterproofed. Before backfilling, a waterproofed wall shall have a protection board placed against it to prevent damage to the waterproofing during backfilling.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 13 (AB 654).

**§ 9632. Crypt walls and floor slabs**

Except as provided in Section 9633, all crypt walls and crypt floor slabs shall be constructed of cast-in-place, reinforced concrete; crypt walls shall conform to structural design but shall be not less than three and one-half inches in thickness, and crypt floor slabs shall be not less than three inches in thickness.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 14 (AB 654).

**§ 9633. Crypt partitions; Vents; Columbarium partitions**

Horizontal and vertical partitions separating crypts comprising companion crypts or a nest of crypts entered through a single crypt opening may be constructed of precast reinforced concrete; provided, the horizontal partitions are not less than one and one-half inches in thickness and the vertical nonbearing partitions are not less than one inch in thickness, and vertical partitions bearing any load are not less than three inches in thickness, and provided the crypt walls enclosing the nest of crypts are constructed as required in Section 9632. Crypts shall be vented at roof level of the structure, and vents shall continue to a gravel filled trench below the floor of the bottom crypt to provide adequate circulation of air. Nonstructural horizontal and vertical partitions separating columbarium niches may be constructed of precast reinforced concrete or other incombustible material.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 15 (AB 654).

**§ 9634. Crypt live load**

Each crypt, including each crypt in a companion crypt or in a nest of crypts referred to in Section 9633, shall be designed for a total live load of 600 pounds.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9635. Crypt seal panels**

(a) All individual crypt openings shall be sealed with a solid panel of precast concrete, not less than 1½ inches thick, fiber reinforced cement board not less than 7/16 inch thick, or other incombustible material that meets all of the following requirements:

- (1) A minimum density of 80 pounds per cubic foot.
- (2) A minimum modulus of rupture of 270 pounds per square inch.
- (3) A minimum compressive strength of 2500 pounds per square inch.
- (4) A rating that conforms to Underwriters Laboratories fire hazard class 1.

(b) All panels shall be securely set in with a high quality, nonflammable, resilient, and nonhardening urethane, silicone base, or other appropriate sealant for permanent sealing after interment is made in the crypt. Seal panels shall be set independent of crypt fronts.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1957 ch 1635 § 10; Stats 1993 ch 350 § 16 (AB 654).

**§ 9636. Marble floors**

All marble floors shall be constructed on a bed of mortar or mastic placed on the floor subslab, with an approved additive to retard efflorescence.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 17 (AB 654).

**§ 9637. Veneers**

All interior or exterior veneers shall be of stone, cast stone, granite, travertine, or marble, or other material allowed in the Uniform Building Code for type I construction. Cast stone shall meet all requirements for cast stone set forth in the Uniform Building Code.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 18 (AB 654).

**§ 9638. Exterior trim**

Material for exterior trim, including exterior crypt and niche fronts, shall be travertine, serpentine marble, or grade A exterior type marble or granite, only.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 19 (AB 654).

**§ 9639. Joints**

Joints shall be of uniform thickness and when mortar is used it shall be raked out as work progresses and on completion of installation joints shall be brushed, thoroughly cleaned, wet and carefully filled and pointed.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9640. Grout**

Grout used for joints and pointing shall conform with the requirements of the Uniform Building Code.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9641. Masonry veneer**

Masonry veneer shall be attached to the supporting wall in accordance with the requirements of the Uniform Building Code.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9642. Base, architraves, wainscoting, and other vertical work**

All base, architraves, wainscoting and all other vertical work other than crypt fronts shall be securely anchored in place with rods, clips, or other suitable anchoring devices of materials as specified in Section 9643. All clips shall be countersunk into the joint surface and set in nonstaining cement or epoxy.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 20 (AB 654).

**§ 9643. Interior and exterior fastenings**

All interior and exterior fastenings for hangers, clips, doors, and other objects shall be of copper base alloy, aluminum, copper or stainless steel of adequate gauges and shall be installed to meet or exceed the seismic requirements of the Uniform Building Code.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 21 (AB 654).

**§ 9644. Exterior materials**

All exterior materials used for doors, window frames, skylights, gutters, downspouts, flashings or embellishment shall be of copper, copper base alloy, aluminum, stainless steel, or other corrosion resistant material of gauges structurally determined.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 22 (AB 654).

**§ 9645. Materials used during national emergency**

In the event that during a national emergency, as proclaimed by the Governor for purposes of this section, none of the materials listed in Sections 9643 and 9644 are obtainable, the department may permit the use of galvanized iron or other durable materials.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 23 (AB 654).

**§ 9646. Roofs**

Roofs shall be constructed of cast-in-place reinforced concrete, and any roof covering shall be “Fire Retardant” in conformity with the requirements of type I construction.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 24 (AB 654).

**§ 9647. Skylight frames**

All skylight frames shall be fabricated in conformance with structural requirements, and shall contain wire glass, tempered glass, or plastic of comparable strength and durability.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1993 ch 350 § 25 (AB 654).

**CHAPTER 6 PENALTIES**

## Section

- 9675. Misdemeanor offenses and punishment; Liability for costs
- 9676. Violation as public nuisance; Punishment and liability for costs
- 9677. Inapplicability of penalties to existing building

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9675. Misdemeanor offenses and punishment; Liability for costs**

Every person who violates any provision of this part is guilty of a misdemeanor, punishable by fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by imprisonment in a county jail not less than 10 days nor more than six months, or by both; and in addition is liable for all costs, expenses, and disbursements paid or incurred by the department or person prosecuting the case.

**HISTORY:** Added Stats 1955 ch 1349 § 2. Amended Stats 1983 ch 1092 § 156, effective September 27, 1983, operative January 1, 1984.

**§ 9676. Violation as public nuisance; Punishment and liability for costs**

Every owner or operator of a mausoleum or columbarium erected in violation of this part is guilty of maintaining a public nuisance and upon conviction is punishable by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) or by imprisonment in a county jail for not less than one month nor more than six months, or by both; and in addition is liable for all costs, expenses and disbursements paid or incurred by the department or person prosecuting the case. Each calendar month during which such public nuisance exists constitutes a separate offense.

The costs, expenses, and disbursements shall be fixed by the court having jurisdiction of the case.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**§ 9677. Inapplicability of penalties to existing building**

The penalties of this chapter shall not apply as to any building which, at the time of issuance of a permit for the construction thereof was in compliance with the laws then existing, if its use is not in violation of the laws for the protection of public health.

**HISTORY:** Added Stats 1955 ch 1349 § 2.

**DIVISION 102 VITAL RECORDS AND HEALTH STATISTICS**

**HISTORY:** Added Stats 1995 ch 415 § 4.

**PART 1 VITAL RECORDS**

## Chapter

- 1. General Provisions
- 2. Administration
- 6. Death Registration
- 7. Fetal Death Registration
- 8. Permits for Disposition of Human Remains
- 11. Amendment of Records
- 12. Court Proceedings to Establish Record of Birth, Death or Marriage
- 13. Recording Certification of Foreign Births and Deaths
- 14. Certified Copy and Verification of Records
- 15. Fees of State and Local Registrars
- 16. Compensation of Appointed Local Registrars of Births and Deaths
- 17. Penalties

**HISTORY:** Added Stats 1995 ch 415 § 4.

## CHAPTER 1 GENERAL PROVISIONS

### Section

- 102100. Registration of birth, death, and marriage
- 102105. Enforcement of part
- 102110. Adoption of regulations
- 102115. Regulations relating to communicable diseases
- 102120. Notice to local registrars with respect to infectious, etc., diseases
- 102125. Requisites of certificate
- 102130. Marriage license
- 102135. Furnishing information on registrar's demand
- 102140. Alteration of records
- 102145. Records of institutions
- 102155. "Absence of conflicting information relative to parentage"

**HISTORY:** Added Stats 1995 ch 415 § 4.

### § 102100. Registration of birth, death, and marriage

Each live birth, fetal death, death, and marriage that occurs in the state shall be registered as provided in this part on the prescribed certificate forms. In addition, a report of every judgment of dissolution of marriage, legal separation, or nullity decree shall be filed with the State Registrar, as provided in this part. All confidential information included in birth, fetal death, death, and marriage certificates and reports of dissolution of marriage, legal separation, or nullity that are required to be filed by this part, shall be exempt from the California Public Records Act contained in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2021 ch 615 § 272 (AB 474), effective January 1, 2022.

### § 102105. Enforcement of part

The department is charged with the uniform and thorough enforcement of this part throughout the state, and may adopt additional regulations for its enforcement.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102110. Adoption of regulations

The State Registrar shall adopt regulations specifying both of the following:

- (a) Procedures to assure the confidentiality of the confidential portion of the certificate of live birth, specified in subdivision (b) of Section 102425, and the medical and health report, specified in Section 102445.
- (b) Procedures regarding access to records required by this part.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102115. Regulations relating to communicable diseases

The department may make and enforce regulations for the embalming, cremation, interment, disinterment and transportation of the dead in matters relating to communicable diseases.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102120. Notice to local registrars with respect to infectious, etc., diseases

The State Registrar shall inform all local registrars which diseases are to be considered infectious, contagious, or communicable and dangerous to the public health, as decided by the department, in order that when deaths occur in which the diseases are involved, proper precautions may be taken to prevent their spread.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102125. Requisites of certificate

All certificates of live birth, fetal death, or death shall be written legibly, in durable black ink, and a certificate is not complete and correct that does not supply all of the items of information called for, or satisfactorily account for their omission.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102130. Marriage license

All marriage licenses shall be written legibly and shall be photographically and micrographically reproducible. A marriage license is not complete and correct that does not supply all of the items of information called for, or satisfactorily account for their omission.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2006 ch 816 § 40 (AB 1102), effective January 1, 2007, operative January 1, 2008.



**§ 102135. Furnishing information on registrar's demand**

(a) All physicians, informants, funeral directors, clergy, or judges and all other persons having knowledge of the facts, shall supply upon the prescribed forms any information that they possess regarding any birth, fetal death, death, or marriage upon demand of the state or local registrar.

(b) All physicians, informants, funeral directors, clergy, judges, public employees, or other persons who supply upon prescribed forms information that they possess regarding any birth, fetal death, death, or marriage shall in no case use a derogatory, demeaning, or colloquial racial or ethnic descriptor.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102140. Alteration of records**

No alteration or change in any respect shall be made on any marriage license or certificate after its acceptance for registration by the local registrar, or on other records made in pursuance of this part, except where supplemental information required for statistical purposes is furnished.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2006 ch 816 § 41 (AB 1102), effective January 1, 2007, operative January 1, 2008.

**§ 102145. Records of institutions**

Every person in charge of a hospital or other institution to which persons are admitted for treatment or confinement shall make a record of the personal, medical and other information for each patient sufficient and adequate for the completion of a birth or death certificate.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102155. "Absence of conflicting information relative to parentage"**

"Absence of conflicting information relative to parentage" as used in Chapter 5 (commencing with Section 102625) or Chapter 11 (commencing with Section 103225) includes entries such as "unknown," "not given," "refused to state," or "obviously fictitious names."

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**CHAPTER 2 ADMINISTRATION**

## Article

1. State Administration.
2. Local Administration.

**HISTORY:** Added Stats 1995 ch 415 § 4.

**ARTICLE 1 STATE ADMINISTRATION**

## Section

- 102175. State Registrar of Vital Statistics
- 102180. Execution of part; Supervisory powers
- 102185. Investigation of violations
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- 102231. Release of birth data files, death data files, or nonconfidential marriage data files by State Registrar
- 102232. Violation of Section 102230 or 102231; Penalty
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- 102235. Destroying original records of birth, death, and marriage; Reproduction
- 102240. Certified photographic reproduction
- 102245. Notation of date of death on state-maintained birth records; Distribution of list of deceased registrants
- 102247. Health Statistics Special Fund
- 102249. Expenditure of funds

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 102175. State Registrar of Vital Statistics**

The director shall be the State Registrar of Vital Statistics.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102180. Execution of part; Supervisory powers**

The State Registrar is charged with the execution of this part in this state, and has supervisory power over local registrars, so that there shall be uniform compliance with all of the requirements of this part.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102185. Investigation of violations**

The State Registrar may investigate cases of irregularity or violations of this part.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102190. Report of violations to, and proceedings by, district attorney**

When the State Registrar deems it necessary, he or she shall report cases of violation of any of the provisions of this part to the district attorney of the county where the violation occurred, with a statement of the facts and circumstances; and the district attorney shall forthwith initiate and promptly follow up with the necessary court proceedings.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102195. Assistance of Attorney General**

The Attorney General shall assist in the enforcement of this part upon request of the State Registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102200. Prescribed record forms**

The State Registrar shall prescribe and furnish all record forms for use in carrying out the purposes of this part, or shall prescribe the format, quality, and content of forms electronically produced in each county, and no record forms or formats other than those prescribed shall be used.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102205. Preparation and issuance of instructions**

The State Registrar shall prepare and issue detailed instructions as may be required to procure the uniform observance of this part and the maintenance of a satisfactory system of registration.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102210. Establishment of registration districts**

The State Registrar shall establish registration districts within the State for the purposes of this part.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102215. Local registrar's conference, and incidental expenses**

The State Registrar of Vital Statistics may call into conference the local registrars or their chief deputies, in groups and at places within the state as may be designated by him or her, to meet with him or her or his or her duly authorized representatives, for the purpose of discussing problems dealing with registration of births, fetal deaths, deaths, and marriages, in order to promote uniformity of policy and procedure throughout the state in matters pertaining to vital registration; provided further, that the actual and necessary expenses incident to attendance at not more than one such meeting per year shall with the prior approval of the local legislative body be a legal charge against the local governmental unit.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102220. Examination and supplementation of certificates**

The State Registrar shall carefully examine the certificates received from the local registrars of births, deaths, and fetal deaths, and if they are incomplete or unsatisfactory shall require any further information that may be necessary to make the record complete and satisfactory.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102225. Examination of marriage certificates**

The State Registrar shall carefully examine the marriage certificates received from the county recorders, and if they are incomplete or unsatisfactory shall require any further information that may be necessary to make the record complete and satisfactory. Any certificates that are determined to be incomplete or unsatisfactory shall be returned to the county recorder within 90 days after receipt by the State Registrar. If a certificate is not returned to the county recorder within 90 days, the State Registrar shall register the certificate as presented.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102230. Preservation and indexing of birth, death, and nonconfidential marriage certificates; Confidentiality**

(a)(1) The State Registrar shall arrange and permanently preserve the certificates in a systematic manner and shall prepare and maintain comprehensive and continuous indices of all certificates registered.

(2) The birth, death, and marriage record indices prepared pursuant to paragraph (1) and all comprehensive birth, death, and marriage record indices prepared or maintained by local registrars and county recorders shall be kept confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(3) Notwithstanding paragraph (2), the State Registrar, at the registrar's discretion, may release comprehensive birth, death, and nonconfidential marriage record indices to a government agency. The comprehensive birth record indices released to the county recorder shall be subject to the same restrictions applicable to the confidential portion of a certificate of live birth, as specified in Section 102430. Local registrars and county recorders, when requested, shall release their comprehensive birth, death, and marriage record indices to the State Registrar. Local registrars may release their comprehensive birth and death record indices to the county recorder within its jurisdiction for purposes of the preparation or maintenance of the indices of the county recorder. A government agency that obtains indices pursuant to this paragraph shall not sell or release the index or a portion of its contents to another person, except as necessary for official government business, and shall not post the indices or any portion of the indices on the internet.

(b)(1) The State Registrar shall prepare and maintain separate noncomprehensive indices of all California birth, death, and nonconfidential marriage records for public release.

(2) For purposes of this section, noncomprehensive birth record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, and place of birth.

(3) For purposes of this section, noncomprehensive death record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, place of birth, place of death, date of death, and father's last name.

(4) For purposes of this section, noncomprehensive nonconfidential marriage record indices for public release shall be comprised of the name of each party to the marriage and the date of marriage.

(5) Requesters of the birth, death, or nonconfidential marriage record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) The proposed use of the birth, death, or nonconfidential marriage record indices.

(B) A disclaimer crediting analyses, interpretations, or conclusions reached regarding the birth, death, or nonconfidential marriage record indices to the author and not to the State Department of Public Health.

(C) Assurance that technical descriptions of the birth, death, or nonconfidential marriage record indices are consistent with those provided by the State Department of Public Health.

(D) Assurance that the requester shall not sell, assign, or otherwise transfer the birth, death, or nonconfidential marriage record indices.

(E) Assurance that the requester shall not use the birth or death record indices for fraudulent purposes.

(6) Birth, death, and nonconfidential marriage record indices obtained pursuant to this subdivision, and any portion thereof, shall not be used for fraudulent purposes.

(c)(1) The State Registrar shall prepare and maintain separate noncomprehensive indices of all California birth, death, and nonconfidential marriage records for purposes of law enforcement or preventing fraud.

(2) For purposes of this section, noncomprehensive birth record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, sex, date of birth, place of birth, and mother's maiden name.

(3) For purposes of this section, noncomprehensive death record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, place of death, mother's maiden name, sex, social security number, date of birth, place of birth, date of death, and father's last name.

(4) For purposes of this section, noncomprehensive nonconfidential marriage record indices for the purpose of preventing fraud shall be comprised of the name of each party to the marriage and the date of marriage.

(5) The birth, death, and nonconfidential marriage record indices prepared pursuant to this subdivision shall be made available to financial institutions, as defined in Section 6827(4)(A) and (B) of Title 15 of the United States Code, its representatives or contractors, consumer credit reporting agencies, as defined in subdivision (d) of Section 1785.3 of the Civil Code, its representatives or contractors, those entities providing information services for purposes of law enforcement or preventing fraud, officers of the court for the sole purpose of verifying a death, and to persons or entities acting on behalf of law enforcement agencies or the court, or pursuant to a court order.

(6) The birth, death, and nonconfidential marriage record indices prepared pursuant to this subdivision may be released to a government agency.

(7) Requesters of the birth, death, or nonconfidential marriage record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) An agreement not to release or allow public access to the birth, death, or nonconfidential marriage record indices, and an agreement not to post the indices on the internet, except as permitted by this subdivision.

(B) The proposed use of the birth, death, or nonconfidential marriage record indices.

(C) The names of all persons within the organization, if applicable, who will have access to the birth, death, or nonconfidential marriage record indices.

(D) A disclaimer crediting analyses, interpretations, or conclusions reached regarding the birth, death, or nonconfidential marriage record indices to the author and not to the State Department of Public Health.

(E) Assurance that technical descriptions of the birth, death, or nonconfidential marriage record indices are consistent with those provided by the State Department of Public Health.

(F) Assurance that the requester shall not sell, assign, or otherwise transfer the birth, death, or nonconfidential marriage record indices, except as permitted by this subdivision.

(G) Assurance that the requester shall not use the birth, death, or nonconfidential marriage record indices for fraudulent purposes.

(8)(A) Birth, death, and nonconfidential marriage record indices, and any portion thereof, obtained pursuant to this section, shall not be used for fraudulent purposes and shall not be posted on the internet.

(B) Notwithstanding subparagraph (A), individual information contained in birth, death, and nonconfidential marriage record indices may be posted on the internet if all of the following requirements are met:

(i) The individual information is posted on an internet website that is protected by a password.

(ii) The individual information is posted on an internet website that is available to subscribers only for a fee.

(iii) The individual information is not posted for public display.

(iv) The individual information is available to subscribers pursuant to a contractual agreement.

(v) The individual information is posted for purposes of law enforcement or preventing fraud.

(d) Mail-in requests from nongovernmental agencies for birth, death, and nonconfidential marriage record indices requested pursuant to subdivisions (b) and (c) shall include a notarized statement attesting to the identity of the requester.

(e) Noncomprehensive birth, death, and nonconfidential marriage record indices pursuant to subdivisions (b) and (c) shall be updated annually.

(f) Birth, death, and nonconfidential marriage record indices provided pursuant to this section shall be made available subject to cost recovery provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) Noncomprehensive birth, death, and nonconfidential marriage record indices created by local registrars or county recorders shall be subject to the conditions for release required by this section.

(h) A person or entity that obtains a birth, death, or nonconfidential marriage record index, or any portion thereof, from a requester who has obtained the index in accordance with paragraph (7) of subdivision (c) shall not sell, assign, or otherwise transfer that index, or any portion thereof, to a third party.

(i) Paragraphs (2) and (3) of subdivision (a) and subdivisions (b) to (h), inclusive, shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2002 ch 712 § 1 (SB 1614); Stats 2009 ch 412 § 3 (AB 130), effective January 1, 2010; Stats 2016 ch 255 § 1 (AB 1546), effective September 9, 2016; Stats 2021 ch 615 § 273 (AB 474), effective January 1, 2022.

**§ 102231. Release of birth data files, death data files, or nonconfidential marriage data files by State Registrar**

(a) Notwithstanding any other law, birth data files, birth data files for public release, death data files for public release, death data files for purposes of law enforcement or preventing fraud, and nonconfidential marriage data files prepared and maintained by the State Registrar, local registrars, and county recorders shall only be released as follows:

(1) Birth data files containing personal identifiers shall be subject to the same restrictions as the confidential portion of a birth certificate and shall only be released under the terms and conditions specified in Section 102430.

(2) Birth data files for public release shall not contain the mother's maiden name.

(3) Death data files for public release shall not contain the mother's maiden name and social security number.

(4) Death data files for purposes of law enforcement or preventing fraud shall include the mother's maiden name and social security number. Death data files prepared pursuant to this subdivision may be released to governmental agencies and to those entities described in paragraph (5) of subdivision (c) of Section 102230.

(5) Death data files containing personal identifying information may be released to persons expressing a valid scientific interest, as determined by the appropriate committee constituted for the protection of human subjects that is approved by the United States Department of Health and Human Services and has a general assurance pursuant to Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations.

(6) Nonconfidential marriage data files shall include the name of each party to the marriage and the date of the marriage. Nonconfidential marriage data files for public release shall not contain the maiden names of the mothers.

(b) Requesters of birth, death, and nonconfidential marriage data files pursuant to this section shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(1) An agreement not to release the birth, death, or marriage data files and not to post the files on the internet, except as permitted by this subdivision.

(2) An agreement not to provide public access to data files obtained pursuant to paragraphs (1) and (4) of subdivision (a).

(3) The proposed use of the data file.

(4) For data files obtained pursuant to paragraphs (1) and (4) of subdivision (a), the names of all persons within the organization, if applicable, who will have access to the data files.

(5) A disclaimer that credits analyses, interpretations, or conclusions reached regarding the birth or death data files to the author and not to the State Department of Public Health.

(6) Assurance that technical descriptions of the data files are consistent with those provided by the State Department of Public Health.

(7) Assurance that the requester shall not sell, assign, or otherwise transfer the data files, except as permitted by subdivision (e).

(8) Assurance that the requester shall not use the data files for fraudulent purposes.

(c) Mail-in requests for birth, death, and nonconfidential marriage data files pursuant to this section shall include a notarized statement attesting to the identity of the requester.

(d) Birth, death, and nonconfidential marriage data files provided pursuant to this section shall be made available subject to cost recovery provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(e)(1) Birth, death, and nonconfidential marriage data files, and any portion thereof, obtained pursuant to this section, shall not be used for fraudulent purposes and shall not be posted on the internet.

(2) Notwithstanding paragraph (1), individual information contained in death data files obtained pursuant to paragraph (4) of subdivision (a) may be posted on the internet if all of the following requirements are met:

(A) The information is posted on an internet website that is protected by a password.

(B) The information is posted on an internet website that is available to subscribers only for a fee.

(C) The information is not posted for public display.

(D) The information is available to subscribers pursuant to a contractual agreement.

(E) The information is posted for purposes of law enforcement or preventing fraud.

(f) A person or entity that obtains a birth, death, or nonconfidential marriage data file, or any portion thereof, from a requester who has obtained the data file in accordance with subdivision (b) shall not sell, assign, or otherwise transfer that data file, or any portion thereof, to a third party.



(g) This section shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

**HISTORY:** Added Stats 2002 ch 712 § 2 (SB 1614). Amended Stats 2009 ch 412 § 4 (AB 130), effective January 1, 2010; Stats 2021 ch 615 § 274 (AB 474), effective January 1, 2022.

#### **§ 102232. Violation of Section 102230 or 102231; Penalty**

(a)(1) Any person who violates Section 102230 or 102231 may be denied further access to the indices or data files maintained by the department.

(2) Any person who violates Section 102230 or 102231 is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not to exceed one year, or a fine of one thousand dollars (\$1,000), or by both the imprisonment and fine, for each violation.

(3) The penalties described in paragraphs (1) and (2) shall not be construed to limit any other remedies provided by law.

(b) Notwithstanding Section 126 of the Penal Code, the crime of perjury specified in paragraph (4) of subdivision (b) of Section 102230, paragraph (6) of subdivision (c) of Section 102230, and subdivision (b) of Section 102231, shall be punishable as a misdemeanor.

(c) Paragraph (1) of subdivision (a) shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

**HISTORY:** Added Stats 2002 ch 712 § 3 (SB 1614).

#### **§ 102233. Document with annual updates regarding marriage certificates of minors**

(a) The State Registrar shall create a document no later than March 1, 2020, with annual updates no later than March 1 of each year thereafter, disaggregated by county, containing only the information received by a local registrar during the preceding calendar year pursuant to subdivision (a) of Section 102356, concerning marriage certificates in which one or both of the parties were minors at the time of solemnization of the marriage.

(b) The document shall not contain the names, addresses, or other personal identifying information of parties to a marriage certificate, or any information identifying a marriage certificate. The document shall not contain a marriage certificate or a copy of the court order described in Section 304 of the Family Code.

(c) The State Registrar shall make the document available to the public upon request.

**HISTORY:** Added Stats 2018 ch 660 § 10 (SB 273), effective January 1, 2019.

#### **§ 102235. Destroying original records of birth, death, and marriage; Reproduction**

Notwithstanding any other provisions of law relating to retention of public records, the State Registrar may cause the original records of birth, death and marriage filed under this part to be destroyed if all of the following requirements have been met:

(a) One year has elapsed since the date of registration of the records.

(b) The birth, death, or marriage records have been reproduced onto microfilm or optical disk or by any other technique that does not permit additions, deletions, or changes to the original document in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(c) Adequate provisions are made that the permanent storage medium reflects additions or corrections to the records.

(d) A permanent copy is maintained in a manner that permits it to be used for all purposes served by the original record.

(e) A permanent copy has been stored at a separate physical location in a place and manner that will reasonably assure its preservation indefinitely against loss or destruction.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 1998 ch 677 § 11 (AB 972); Stats 2000 ch 569 § 10 (SB 2067).

#### **§ 102240. Certified photographic reproduction**

Any certified photographic reproduction of any record stored on a permanent storage medium under this chapter shall be deemed to be a certification of the original record.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 102245. Notation of date of death on state-maintained birth records; Distribution of list of deceased registrants**

On and after January 1, 1978, whenever the State Registrar receives a death certificate from a local registrar, the State Registrar shall determine whether the state records contain the birth certificate of the de-

ceased or a reproduction thereof as authorized under this chapter. If the State Registrar has such a record of birth, it shall be revised to indicate the date of the death of the registrant, or, alternatively, a notation to that effect shall be entered in the State Registrar's index of births adjacent to the name of the deceased. The State Registrar, pursuant to an ongoing program, shall distribute, without charge, on a monthly basis to each county, a list of deceased registrants to enable local registrars and recorders to update their files. Upon receipt of such a list the local registrar or county recorder shall revise the local records or indexes accordingly.

Subject to the availability of funds appropriated for that purpose, the State Registrar may similarly revise or index birth records of registrants whose death certificates were filed prior to January 1, 1978.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 102247. Health Statistics Special Fund**

(a) There is hereby created in the State Treasury the Health Statistics Special Fund. The fund shall consist of revenues, including, but not limited to, all of the following:

(1) Fees or charges remitted to the State Registrar for record search or issuance of certificates, permits, registrations, or other documents pursuant to Chapter 3 (commencing with Section 26801) of Part 3 of Division 2 of Title 3 of the Government Code, and Chapter 4 (commencing with Section 102525), Chapter 5 (commencing with Section 102625), Chapter 8 (commencing with Section 103050), and Chapter 15 (commencing with Section 103600) of Part 1 of Division 102 of this code.

(2) Funds remitted to the State Registrar by the federal Social Security Administration for participation in the enumeration at birth program.

(3) Funds remitted to the State Registrar by the National Center for Health Statistics pursuant to the federal Vital Statistics Cooperative Program.

(4) Any other funds collected by the State Registrar, except Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code and fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, all of which shall be deposited into the General Fund.

(b) Moneys in the Health Statistics Special Fund shall be expended by the State Registrar for the purpose of funding its existing programs and programs that may become necessary to carry out its mission, upon appropriation by the Legislature.

(c) Health Statistics Special Fund moneys shall be expended only for the purposes set forth in this section and Section 102249, and shall not be expended for any other purpose or for any other state program.

(d) It is the intent of the Legislature that the Health Statistics Special Fund provide for the following:

(1) Registration and preservation of vital event records and dissemination of vital event information to the public.

(2) Data analysis of vital statistics for population projections, health trends and patterns, epidemiologic research, and development of information to support new health policies.

(3) Development of uniform health data systems that are integrated, accessible, and useful in the collection of information on health status.

(e) This section shall become operative on January 1, 2023.

**HISTORY:** Added Stats 2010 ch 529 § 6 (AB 52), effective September 29, 2010, operative January 1, 2018. Amended Stats 2011 ch 296 § 170 (AB 1023), effective January 1, 2012, operative January 1, 2018; Amended Stats 2017 ch 38 § 5 (AB 114), effective July 10, 2017, operative January 1, 2023.

### **§ 102249. Expenditure of funds**

(a) The State Registrar shall expend funds in the Health Statistics Special Fund, upon appropriation by the Legislature, for all of the following:

(1) Support existing programs within the State Registrar's office.

(2) Implement and support new programs within the State Registrar's office that meet its goals and objectives.

(3) Build a data system that will support policy analysis and program decisions at all levels, be useful to health care providers, local and community agencies, and the state, and ultimately benefit consumers of health care services.

(4) Develop and maintain public health data bases.

(5) Access and analyze data in order to develop and evaluate California's health policy.

(6) Conduct special studies and prepare statistical reports concerning the health status of Californians.

(7) Develop and maintain an automation system for vital event registration.

(8) Disseminate vital event information and statistical reports to the public.

(b) This section shall become operative on July 1, 1995.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

## ARTICLE 2 LOCAL ADMINISTRATION

### Section

- 102275. Health officer as local registrar of births and deaths
- 102280. Appointment of local registrar of births and deaths in other areas
- 102285. Local registrar of marriages
- 102290. Assistant or deputy registrar
- 102295. Enforcement; Report of violations
- 102300. Supplying blank forms
- 102305. Examination of birth and death certificate; Requiring further information
- 102310. Examination of marriage certificate; Requiring further information
- 102315. Attesting to date of acceptance
- 102320. Numbering Certificates
- 102325. Numbering marriage certificates
- 102330. Preserving copy of certificate
- 102335. Transmittal by local registrar of copy of original birth and death certificates to county recorder and forwarding of original certificates to State Registrar
- 102340. Exception of local registrar serving county-wide health jurisdiction of specified population maintaining central depository record [Repealed]
- 102345. Transmittal of birth and death certificate to State Registrar
- 102346. Certificate of death for work-related deaths
- 102350. Sending copy of certificate to attending physician
- 102355. Transmittal of certificate of marriage to State Registrar
- 102356. Information submitted by registrar regarding marriages of minors
- 102360. Furnishing notification of deaths to registrar of voters or county clerk
- 102365. Disposition of local registrar's copies of records
- 102370. Special county record of filings prior to July 1, 1905
- 102375. Inspection of special county records
- 102380. Disposition of special county record
- 102385. Return of records to registrar or recorder
- 102390. Transferred records exempt from certain state registrar provisions
- 102395. Special county records and local registrar's records subject to specified provisions

**HISTORY:** Added Stats 1995 ch 415 § 4.

### § 102275. Health officer as local registrar of births and deaths

The health officer of any approved local health department, as defined in Article 1 (commencing with Section 101175) of Part 3 of Division 101 and approved thereunder, is the local registrar in and for all registration districts within that health jurisdiction and shall perform all the duties of local registrar of births and deaths.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102280. Appointment of local registrar of births and deaths in other areas

In other areas, the State Registrar shall appoint a local registrar of births and deaths for each registration district, whose term of office shall be four years. The State Registrar may remove such appointee forthwith for failure or neglect to perform his or her duty.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102285. Local registrar of marriages

The county recorder is the local registrar of marriages and shall perform all the duties of the local registrar of marriages.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102290. Assistant or deputy registrar

Each assistant or deputy of a local registrar may perform all of the duties of the local registrar in the name and place of his or her principal.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102295. Enforcement; Report of violations

Each local registrar is hereby charged with the enforcement of this part in his or her registration district under the supervision and direction of the State Registrar and shall make an immediate report to the State Registrar of any violation of this law coming to his or her knowledge.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102300. Supplying blank forms

Each local registrar shall supply blank forms to persons who require them.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102305. Examination of birth and death certificate; Requiring further information**

The local registrar of births and deaths shall carefully examine each certificate before acceptance for registration and, if any are not completed in a manner consistent with the policies established by the State Registrar, he or she shall require further information to be furnished as may be necessary to make the record consistent with those policies before acceptance for registration.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102310. Examination of marriage certificate; Requiring further information**

The local registrar of marriages shall carefully examine each license before acceptance for registration and, if it is incomplete or unsatisfactory, he or she shall require any further information to be furnished as may be necessary to make the record satisfactory before acceptance for registration.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 1996 ch 1023 § 304.3 (SB 1497), effective September 29, 1996; Stats 2006 ch 816 § 42 (AB 1102), effective January 1, 2007, operative January 1, 2008.

**§ 102315. Attesting to date of acceptance**

The local registrar shall affix his or her signature to each certificate in attest to the date of acceptance for registration in his or her office.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102320. Numbering Certificates**

The local registrar shall number the certificates of live birth, fetal death, and death consecutively in separate series, beginning with number one for the first event in each calendar year.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102325. Numbering marriage certificates**

The local registrar shall number each marriage certificate consecutively beginning with the number one for either the first event occurring, or first event registered in, each calendar year. Numbering may be based on either the year that the event occurs or the year of registration.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2006 ch 816 § 43 (AB 1102), effective January 1, 2007, operative January 1, 2008.

**§ 102330. Preserving copy of certificate**

The local registrar shall make a complete and accurate copy of each certificate accepted for registration and shall preserve it in his or her office as the local registrar's copy of the record in the manner directed by the State Registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102335. Transmittal by local registrar of copy of original birth and death certificates to county recorder and forwarding of original certificates to State Registrar**

Each local registrar of births and deaths shall transmit a copy of each original birth certificate and death certificate to the county recorder for the special county record, and shall, at the same time, forward the original certificates to the State Registrar pursuant to Section 102345.

**HISTORY:** Added Stats 2018 ch 147 § 2 (AB 2561), effective January 1, 2019.

**§ 102340. Exception of local registrar serving county-wide health jurisdiction of specified population maintaining central depository record [Repealed]**

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Repealed Stats 2018 ch 147 § 3 (AB 2561), effective January 1, 2019.

**§ 102345. Transmittal of birth and death certificate to State Registrar**

(a) The local registrar of births and deaths shall transmit each week to the State Registrar all original certificates accepted for registration by him or her during the preceding week.

(b) This section shall become operative on January 1, 1993.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102346. Certificate of death for work-related deaths**

(a) The local registrar of births and deaths shall transmit each month to the Department of Industrial Rela-

tions a copy of each certificate of death for which the death has been marked as work-related and which was accepted for registration by him or her during the preceding month.

(b) This section shall become operative on January 1, 2003.

**HISTORY:** Added Stats 2002 ch 885 § 1 (AB 2837). Amended Stats 2012 ch 46 § 75 (SB 1038), effective June 27, 2012.

#### **§ 102350. Sending copy of certificate to attending physician**

The county board of supervisors may, by resolution, require the local registrar to send a copy of each certificate of death to the physician and surgeon whose statement appears on the certificate pursuant to Section 102825.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 102355. Transmittal of certificate of marriage to State Registrar**

The local registrar of marriages shall transmit to the State Registrar not less than quarterly all original marriage certificates accepted for registration by him or her during the preceding quarter. Certificates shall be batched by calendar year of event prior to transmission. Certificates may be transmitted at more frequent intervals by arrangement with the State Registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2006 ch 816 § 44 (AB 1102), effective January 1, 2007, operative January 1, 2008.

#### **§ 102356. Information submitted by registrar regarding marriages of minors**

(a) For purposes of Section 102233, the local registrar of marriages shall submit to the State Registrar, at least annually, all of the following information concerning marriage certificates that are accepted for registration by him or her during the same calendar year and in which one or both of the parties were minors at the time of solemnization of the marriage:

(1) The total number of those marriage certificates.

(2) Itemized for each of those marriage certificates, the age of each party at the time of solemnization of the marriage.

(3) Itemized for each of those marriage certificates, the gender of each party as documented on the court order pursuant to Section 304 of the Family Code, unless the court order does not include the gender.

(b) The information submitted to the State Registrar pursuant to subdivision (a) shall not contain the names, addresses, or other personal identifying information of parties to a marriage certificate, or any information identifying a marriage certificate. The information shall not contain a marriage certificate or a copy of the court order described in Section 304 of the Family Code.

(c)(1) The local registrar of marriages shall not submit any information described in paragraphs (1) to (3), inclusive, of subdivision (a) if no marriage certificate described in subdivision (a) is accepted for registration by him or her during the same calendar year.

(2) For any marriage certificate described in subdivision (a), the local registrar of marriages is not required to submit any information described in paragraphs (1) to (3), inclusive, of subdivision (a) if the local registrar of marriages did not receive a copy of the court order from the person solemnizing the marriage pursuant to Section 423 of the Family Code. The local registrar of marriages may elect to submit any of that information, if otherwise available, even if he or she did not receive the copy of the court order.

(d)(1) Notwithstanding any other law, no earlier than two years after the local registrar of marriages submits the information described in subdivision (a) to the State Registrar, the local registrar may dispose of that information.

(2) Notwithstanding any other law, immediately after the local registrar of marriages submits the information described in subdivision (a) to the State Registrar, the local registrar may dispose of the copy of the court order received from the person solemnizing the marriage pursuant to Section 423 of the Family Code.

(e) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Public Health may implement this section through an all-county letter or similar instruction from the State Registrar without taking regulatory action.

**HISTORY:** Added Stats 2018 ch 660 § 11 (SB 273), effective January 1, 2019.

#### **§ 102360. Furnishing notification of deaths to registrar of voters or county clerk**

The local registrar of births and deaths shall furnish to the registrar of voters or county clerk not later than the 15th day of each month a notification of all deceased persons 18 years of age and over whose deaths



were registered with him or her or of whose deaths he or she was notified by the state registrar of vital statistics during the preceding month. This notification shall include at least the name, social security number, sex, age, birthplace, birthdate, place of residence, and date and place of death for each decedent. Copies of this notification list shall be sent at the same time to the county welfare department and the local district social security office.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 102365. Disposition of local registrar's copies of records**

(a) Notwithstanding any other law, a local registrar of births and deaths, after two years from the date of registration and with the approval of, and under the supervision of, the State Registrar, shall dispose of the local registrar's copies of the records, if both of the following exist:

(1) The original copies of the records are on file in the office of the State Registrar.

(2) Copies of the records are on file in the office of the county recorder. If the county recorder does not have copies of the records, the county recorder may accept the State Registrar's copies as a special county record of the events.

(b) Notwithstanding subdivision (a), a local health jurisdiction that exclusively serves cities may issue a record older than two years if the record issued is the most accurate record on file with the State of California.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2018 ch 147 § 4 (AB 2561), effective January 1, 2019; Stats 2019 ch 188 § 1 (AB 1152), effective January 1, 2020.

#### **§ 102370. Special county record of filings prior to July 1, 1905**

The local custodian of records is hereby authorized to receive original records or abstracts of records of any birth or death that were filed with any political subdivision prior to July 1, 1905, and to retain them as a special county record of the events.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 1996 ch 889 § 1 (AB 2755).

#### **§ 102375. Inspection of special county records**

Special county records of birth certificates and death certificates transmitted and filed with the county recorder under this article shall be open for inspection by the public in accordance with regulations adopted by the department for local registrars.

Nothing in this section shall authorize the use of a certificate marked pursuant to subdivision (a) of former Section 10056.5 by any person compiling a business contact list.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 102380. Disposition of special county record**

The county recorder and the local registrar of births and deaths, with the approval and under the supervision of the State Registrar and with the approval of the board of supervisors of any county or city and county by ordinance, may authorize the transfer of special county records of deaths and marriages and local registrar's records of deaths for events that occurred subsequent to July 1, 1905, to a private nonprofit agency or public agency that shall preserve the records for local public use. The receiving agency shall protect and preserve the records to assure access for any person who has a need or interest in reviewing the records, and shall prohibit the photocopying or sale of copies of the records, but may convert the records to microform format.

If the office of the local registrar or the county recorder does not have copies of the records, that office is hereby authorized to accept them from the county recorder or local registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 102385. Return of records to registrar or recorder**

If a public agency or private nonprofit agency that receives copies of records pursuant to this section is unable to assure the continued preservation and protection of those records for public use, the records shall be returned to the contributing local registrar or county recorder.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 102390. Transferred records exempt from certain state registrar provisions**

Any record of death and marriage transferred to a public agency or private nonprofit agency pursuant to Section 102380 is exempt from Sections 102230 and 103245.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 102395. Special county records and local registrar's records subject to specified provisions**

Special county records of birth, death, and marriage and the local registrar's records of birth, death, and marriage shall be subject to Sections 26205.5 and 26205.7 of the Government Code.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

## **CHAPTER 6 DEATH REGISTRATION**

### **Article**

1. Duty of Registering Death.
2. Responsibility of Attending Physician.
3. Responsibility of Coroner.
4. Content of Certificate of Death.

**HISTORY:** Added Stats 1995 ch 415 § 4.

## **ARTICLE 1 DUTY OF REGISTERING DEATH**

### **Section**

102775. Required registration
102778. Internet-based electronic death registration system
102780. Responsibility of funeral director
102785. Incorporation of computer or telephone facsimile technology into statewide registration program
102790. Source of information
102791. Report on veteran suicide in California
102795. Responsibility of physician, surgeon, licensed physician's assistant or coroner
102800. Time for completing data and delivering certificate
102805. Embalmer's signature under power of attorney

**HISTORY:** Added Stats 1995 ch 415 § 4.

### **§ 102775. Required registration**

Each death shall be registered with the local registrar of births and deaths in the district in which the death was officially pronounced or the body was found, within eight calendar days after death and prior to any disposition of the human remains.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 102778. Internet-based electronic death registration system**

(a) On or before January 1, 2005, the department shall implement an Internet-based electronic death registration system for the creation, storage, and transfer of death registration information.

(b) The electronic death registration system implemented pursuant to this section shall protect the proper use of the death registration information created, stored, and transferred within the system.

(c) The electronic death registration system that is implemented pursuant to this section shall be subject to any limitation placed on the accessibility and release of personally identifying information contained in those death records by any other provision of law or subsequently enacted legislation.

**HISTORY:** Added Stats 2002 ch 857 § 1 (AB 2550).

### **§ 102780. Responsibility of funeral director**

A funeral director, or person acting in lieu thereof, shall prepare the certificate and register it with the local registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 102785. Incorporation of computer or telephone facsimile technology into statewide registration program**

The State Registrar, at his or her discretion, may incorporate computer or telephone facsimile technology, or both, in the statewide program of death and fetal death registration, including, but not limited to, the issuing of permits for disposition of human remains.

Nothing in this section shall limit the ability of local districts to file certificates of death and fetal death manually within the local registration districts.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 102790. Source of information**

The funeral director shall obtain the required information other than medical and health section data from the person or source best qualified to supply this information.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 102791. Report on veteran suicide in California**

(a)(1) The State Department of Public Health shall access data within the electronic death registration system implemented pursuant to Section 102778 to compile a report on veteran suicide in California. The report shall include, but may not be limited to, information on the ages, sexes, races or ethnicities, counties of residence, and methods of suicide of veterans.

(2) The report shall include a cross-tabulation of the data specified in paragraph (1), and shall compare the data to the data from the previous year.

(b)(1) The department shall, notwithstanding Section 10231.5 of the Government Code, annually provide the report compiled pursuant to subdivision (a) to the Legislature and the Department of Veterans Affairs on or before March 15 each year.

(2) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

**HISTORY:** Added Stats 2017 ch 222 § 1 (AB 242), effective January 1, 2018. Amended Stats 2020 ch 77 § 1 (AB 3371), effective January 1, 2021.

### **§ 102795. Responsibility of physician, surgeon, licensed physician's assistant or coroner**

The medical and health section data and the time of death shall be completed and attested to by the physician and surgeon last in attendance, or in the case of a patient in a skilled nursing or intermediate care facility at the time of death, by the physician and surgeon last in attendance or by a licensed physician assistant under the supervision of the physician and surgeon last in attendance if the physician and surgeon or licensed physician assistant is legally authorized to certify and attest to these facts, and if the physician assistant has visited the patient within 72 hours of the patient's death. In the event the licensed physician assistant certifies the medical and health section data and the time of death, then the physician assistant shall also provide on the document the name of the last attending physician and surgeon and provide the coroner with a copy of the certificate of death. However, the medical health section data and the time of death shall be completed and attested to by the coroner in those cases in which he or she is required to complete the medical and health section data and certify and attest to these facts.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 102800. Time for completing data and delivering certificate**

The medical and health section data and the physician's or coroner's certification shall be completed by the attending physician within 15 hours after the death, or by the coroner within three days after examination of the body.

The physician shall within 15 hours after the death deposit the certificate at the place of death, or deliver it to the attending funeral director at his or her place of business or at the office of the physician.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 102805. Embalmer's signature under power of attorney**

An embalmer may authorize his or her signature to be affixed to the certificate after he or she has embalmed a body, as required by this chapter, by a written special power of attorney that shall be retained for a period of one year.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

## **ARTICLE 2 RESPONSIBILITY OF ATTENDING PHYSICIAN**

Section

102825. Statements of physician and surgeon or physician's assistant

**HISTORY:** Added Stats 1995 ch 415 § 4.

### **§ 102825. Statements of physician and surgeon or physician's assistant**

(a) The physician and surgeon last in attendance, or in the case of a patient in a skilled nursing or intermediate care facility at the time of death, the physician and surgeon last in attendance or a licensed physician assistant under the supervision of the physician and surgeon last in attendance, on a deceased person shall state on the certificate of death the disease or condition directly leading to death, antecedent causes, other significant conditions contributing to death and any other medical and health section data as may be required

on the certificate; he or she shall also specify the time in attendance, the time he or she last saw the deceased person alive, and the hour and day on which death occurred, except in deaths required to be investigated by the coroner. The physician and surgeon or physician assistant shall specifically indicate the existence of any cancer as defined in subdivision (h) of Section 103885, of which the physician and surgeon or physician assistant has actual knowledge.

(b) A physician and surgeon may designate, one or more other physicians and surgeons who have access to the physician and surgeon's records, to act as agent for the physician and surgeon for purposes of the performance of his or her duties under this section, provided that any person so designated acts in consultation with the physician and surgeon.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2015 ch 303 § 339 (AB 731), effective January 1, 2016.

## ARTICLE 3 RESPONSIBILITY OF CORONER

### Section

102850. Notification of coroner; Circumstances

102855. Ascertainment of facts

102860. Statements on, and delivery of, certificate

102865. Notification of sudden infant death syndrome

102870. Dental examination if coroner unable to identify body; Forwarding examination records to Department of Justice

**HISTORY:** Added Stats 1995 ch 415 § 4.

### § 102850. Notification of coroner; Circumstances

A physician and surgeon, physician assistant, funeral director, or other person shall immediately notify the coroner when he or she has knowledge of a death that occurred or has charge of a body in which death occurred under any of the following circumstances:

- (a) Without medical attendance.
- (b) During the continued absence of the attending physician and surgeon.
- (c) Where the attending physician and surgeon or the physician assistant is unable to state the cause of death.
- (d) Where suicide is suspected.
- (e) Following an injury or an accident.
- (f) Under circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another.

Any person who does not notify the coroner as required by this section is guilty of a misdemeanor.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102855. Ascertainment of facts

The coroner whose duty it is to investigate such deaths shall ascertain as many as possible of the facts required by this chapter.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102860. Statements on, and delivery of, certificate

The coroner shall state on the certificate of death the disease or condition directly leading to death, antecedent causes, other significant conditions contributing to death and other medical and health section data as may be required on the certificate, and the hour and day on which death occurred. The coroner shall specifically indicate the existence of any cancer, as defined in subdivision (e) of Section 103885, of which he or she has actual knowledge.

The coroner shall within three days after examining the body deliver the death certificate to the attending funeral director.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### § 102865. Notification of sudden infant death syndrome

In any case involving an infant under the age of one year where the gross autopsy results in a presumed diagnosis of sudden infant death syndrome, the coroner shall, within 24 hours of the gross autopsy, notify the local health officer, as defined in Section 123740.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102870. Dental examination if coroner unable to identify body; Forwarding examination records to Department of Justice**

(a) In deaths investigated by the coroner or medical examiner where he or she is unable to establish the identity of the body or human remains by visual means, fingerprints, or other identifying data, the coroner or medical examiner may have a qualified dentist, as determined by the coroner or medical examiner, carry out a dental examination of the body or human remains. If the coroner or medical examiner with the aid of the dental examination and other identifying findings is still unable to establish the identity of the body or human remains, he or she shall prepare and forward the dental examination records to the Department of Justice on forms supplied by the Department of Justice for that purpose.

(b) The Department of Justice shall act as a repository or computer center, or both, with respect to dental examination records and the final report of investigation specified in Section 27521 of the Government Code. The Department of Justice shall compare the dental examination records and the final report of investigation, if applicable, to records filed with the Violent Crime Information Center (Title 12 (commencing with Section 14200) of Part 4 of the Penal Code), shall determine which scoring probabilities are the highest for purposes of identification, and shall submit the information to the coroner or medical examiner who submitted the dental examination records and the final report of investigation, if applicable.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2000 ch 284 § 3 (SB 1736).

**ARTICLE 4 CONTENT OF CERTIFICATE OF DEATH**

Section

102875. Division into sections; Contents

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 102875. Division into sections; Contents**

The certificate of death shall be divided into two sections.

(a) The first section shall contain those items necessary to establish the fact of the death, including all of the following and those other items as the State Registrar may designate:

(1)(A) Personal data of the decedent including full name, sex, color or race, marital status, name of spouse, date of birth and age at death, birthplace, usual residence, occupation and industry or business, and whether the decedent was ever in the Armed Forces of the United States.

(B) A person completing the certificate shall record the decedent's sex to reflect the decedent's gender identity as female, male, or nonbinary. The decedent's gender identity shall be reported by the informant, unless the person completing the certificate is presented with a birth certificate, a driver's license, a social security record, a court order approving a name or gender change, a passport, an advanced health care directive, or proof of clinical treatment for gender transition, in which case the person completing the certificate shall record the decedent's sex as that which corresponds to the decedent's gender identity as indicated in that document. If none of these documents are presented and the person with the right, or a majority of persons who have equal rights, to control the disposition of the remains pursuant to Section 7100 is in disagreement with the gender identity reported by the informant, the gender identity of the decedent recorded on the death certificate shall be as reported by that person or majority of persons.

(C) If a document specified in subparagraph (B) is not presented and a majority of persons who have equal rights to control the disposition of the remains pursuant to Section 7100 do not agree with the gender identity of the decedent as reported by the informant, any one of those persons may file a petition, in the superior court in the county in which the decedent resided at the time of the decedent's death, or in which the remains are located, naming as a party to the action those persons who otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties shall determine the gender identity of the decedent.

(D) A person completing the death certificate in compliance with subparagraph (B) is not liable for any damages or costs arising from claims related to the sex of the decedent as entered on the certificate of death.

(E) A person completing the death certificate shall comply with the data and certification requirements described in Section 102800 by using the information available to the person prior to the deadlines for completion specified in that section.

(2) Date of death, including month, day, and year.

(3) Place of death.

(4)(A) Current first and middle names, birth last names, and the birthplaces of the parents, without reference to the parents' gendered relationship to the decedent.



(B) The State Registrar shall electronically capture the following information, which shall not be transcribed onto the actual hard copy of the death certificate:

- (i) The parents' relationship to the decedent.
- (ii) Any additional last names used by the parents, if any.

(C) The State Registrar shall implement the changes made by the act that added this subparagraph no later than July 1, 2024.

(5) Informant.

(6) Disposition of body information, including signature and license number of embalmer, if the body is embalmed, or name of embalmer if affixed by attorney-in-fact; name of funeral director, or person acting as such; and date and place of interment or removal. Notwithstanding any other law, an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar may be used in lieu of the actual signature of the embalmer.

(7) Certification and signature of attending physician and surgeon or certification and signature of coroner when required to act by law. Notwithstanding any other law, the person completing the portion of the certificate setting forth the cause of death may attest to its accuracy by use of an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar in lieu of a signature.

(8) Date accepted for registration and signature of local registrar. Notwithstanding any other law, the local registrar may elect to use an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar in lieu of a signature.

(b) The second section shall contain those items relating to medical and health data, including all of the following and other items as the State Registrar may designate:

- (1) Disease or conditions leading directly to death and antecedent causes.
- (2) Operations and major findings thereof.
- (3) Accident and injury information.

(4) Information indicating whether the decedent was pregnant at the time of death, or within a year prior to the death, if known, as determined by observation, autopsy, or review of the medical record. The electronic death registration system shall capture additional information regarding the pregnancy status of the decedent consistent with the data elements on the U.S. Standard Certificate of Death. This paragraph shall not be interpreted to require the performance of a pregnancy test on a decedent, or to require a review of medical records in order to determine pregnancy.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 1996 ch 889 § 2 (AB 2755); Stats 2002 ch 827 § 1 (AB 1139); Stats 2014 ch 631 § 2 (AB 1577), effective January 1, 2015; Stats 2017 ch 222 § 2 (AB 242), effective January 1, 2018; Stats 2019 ch 533 § 2 (SB 464), effective January 1, 2020; Stats 2021 ch 53 § 1 (AB 439), effective January 1, 2022; Stats 2022 ch 966 § 1 (AB 2436), effective January 1, 2023.

## CHAPTER 7 FETAL DEATH REGISTRATION

### Article

- 1. Duty of Registering Fetal Death.
- 2. Responsibility of Attending Physician.
- 3. Responsibility of Coroner.
- 4. Content of Certificate of Fetal Death.
- 4.5. Missing Angels Act.

**HISTORY:** Added Stats 1995 ch 415 § 4.

## ARTICLE 1 DUTY OF REGISTERING FETAL DEATH

### Section

- 102950. Required registration
- 102955. Preparation and registration of certificate
- 102960. Source of information

**HISTORY:** Added Stats 1995 ch 415 § 4.

### § 102950. Required registration

(a) Each fetal death in which the fetus has advanced to or beyond the 20th week of uterogestation shall be registered with the local registrar of births and deaths of the district in which the fetal death was officially pronounced within eight calendar days following the event and prior to any disposition of the fetus.

(b) Subdivision (a) shall not apply to the termination of a pregnancy performed in compliance with Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2007 ch 661 § 2 (SB 850), effective January 1, 2008.

**§ 102955. Preparation and registration of certificate**

A funeral director, or if there is no funeral director, the person acting in lieu thereof, shall prepare the certificate and register it with the local registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 102960. Source of information**

A funeral director, or if there is no funeral director, the person acting in lieu thereof, shall obtain the required information other than medical and health section data from the person or source best qualified to supply this information.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 1996 ch 1023 § 304.45 (SB 1497), effective September 29, 1996.

**ARTICLE 2 RESPONSIBILITY OF ATTENDING PHYSICIAN**

Section

102975. Required statement, signature, and deposit or delivery of certificate

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 102975. Required statement, signature, and deposit or delivery of certificate**

The physician, if any, in attendance on the delivery of a fetus shall within 15 hours after the delivery state on the certificate of fetal death the time of fetal death or delivery, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts.

The physician shall within 15 hours after the death deposit the certificate at the place of death, or deliver it to the attending funeral director at his or her place of business or at the office of the physician.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**ARTICLE 3 RESPONSIBILITY OF CORONER**

Section

103000. Handling of other deaths [Repealed]

103005. Coroner's statement and signature on, and delivery of, certificate

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103000. Handling of other deaths [Repealed]**

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Repealed Stats 2022 ch 629 § 3 (AB 2223), effective January 1, 2023.

**§ 103005. Coroner's statement and signature on, and delivery of, certificate**

(a) The coroner shall, within three days after examination of the fetus, state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person who is immune from liability under Section 123467. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2022 ch 629 § 4 (AB 2223), effective January 1, 2023.

**ARTICLE 4 CONTENT OF CERTIFICATE OF FETAL DEATH**

Section

103025. Certificate sections, and items therein

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103025. Certificate sections, and items therein**

The certificate of fetal death shall contain items as may be designated by the State Registrar and shall be divided into two sections. The first section shall contain those items necessary to establish the fact of the fetal death. The second section shall contain those items relating to medical and health data and shall be

clearly labeled "Confidential Information for Public Health Use Only." The information included in the second section shall be kept confidential pursuant to Section 102430.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2005 ch 430 § 5 (AB 1278), effective January 1, 2006.

## ARTICLE 4.5 MISSING ANGELS ACT

Section

103040. Citation of act

103040.1. Issuance of certificate of still birth

**HISTORY:** Added Stats 2007 ch 661 § 3, effective January 1, 2008.

### § 103040. Citation of act

This act shall be known, and may be cited, as the Missing Angels Act.

**HISTORY:** Added Stats 2007 ch 661 § 3 (SB 850), effective January 1, 2008.

### § 103040.1. Issuance of certificate of still birth

(a) The local registrar of births and deaths of the county in which a fetal death, in which the fetus has advanced beyond the 20th week of uterogestation, is registered, shall issue, upon the request of the mother or father of the fetus, a Certificate of Still Birth, on a form approved by the State Registrar of Vital Statistics for each naturally occurring intrauterine fetal death after a gestational age of not less than 20 completed weeks.

(b) A Certificate of Still Birth issued pursuant to subdivision (a) shall, except as otherwise set forth in this section, comply with all of the format requirements governing a certificate for a live birth contained in Article 2 (commencing with Section 102425). The Certificate of Still Birth shall be in addition to and shall not replace the fetal death certificate issued pursuant to Article 1 (commencing with Section 102950).

(c) The request for a Certificate of Still Birth shall be on a form prescribed by the State Registrar of Vital Statistics.

(d) The Certificate of Still Birth shall be on a form prescribed by the State Registrar of Vital Statistics and shall only contain the following information taken from the fetal death certificate:

- (1) The date of the stillbirth.
- (2) The county in which the stillbirth occurred.
- (3) The name of and sex of the stillborn fetus, as provided on the original or amended fetal death certificate.
- (4) The time and place of stillbirth, including the street address and city, and, if applicable, the name of the hospital.
- (5) The names, date of birth, and state of birth of the mother and father.
- (6) The corresponding file number of the final fetal death certificate.
- (7) A title at the top of the Certificate of Still Birth that reads: Certificate of Still Birth.
- (8) A statement at the bottom of the Certificate of Still Birth that states: This Certificate of Still Birth is not proof of a live birth.

(e) The State Registrar of Vital Statistics shall not use the information included on a Certificate of Still Birth for any governmental purpose other than to respond to the request for the certificate from the persons identified in subdivision (a).

(f) The State Registrar of Vital Statistics may charge an appropriate fee for processing and issuing a Certificate of Still Birth. The fee shall cover, but shall not exceed, the entity's full cost of providing the certificate. During the 2007-08 fiscal year, the fee shall not exceed twenty dollars (\$20), thereafter, the fee may be adjusted annually pursuant to Section 100430. The local registrar of births and deaths may charge an appropriate fee for the processing and issuing of a Certificate of Live Birth, not to exceed the entity's full cost of providing the certificate.

(g) The State Registrar of Vital Statistics shall issue a Certificate of Still Birth upon request regardless of the date on which the certificate of fetal death was issued.

(h) This section shall not be used to establish, bring, or support a civil cause of action seeking damages against any person or entity for bodily injury, personal injury, or wrongful death for a stillbirth.

(i) For the purposes of this section, "stillbirth" as recorded in the Certificate of Still Birth means the delivery of a fetus where there was a naturally occurring intrauterine fetal death after a gestational age of not less than 20 completed weeks.

(j) This section shall not supercede any other provision of law. The terms and conditions contained in this section shall only apply to this section, and shall not affect the definition, use, meaning, or intent of those

terms as they may appear in any other statute, California case law, or the California Constitution. Other than prescribing the right to request a Certificate of Still Birth, nothing in this section shall be construed to create any new right, privilege, or entitlement, or to abrogate any existing right, privilege, or entitlement.

(k) Through its courts, statutes, and under its Constitution, California law protects a woman's right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections in accordance with the California Supreme Court's decision in *People v. Belous* (1969) 71 Cal.2d 954, 966-968.

**HISTORY:** Added Stats 2007 ch 661 § 3 (SB 850), effective January 1, 2008.

## CHAPTER 8 PERMITS FOR DISPOSITION OF HUMAN REMAINS

### Section

- 103050. Required certificate and permit; Exceptions
- 103055. Issuance of permit [Repealed effective January 1, 2027]
- 103055. Issuance of permit [Operative January 1, 2027]
- 103060. Permit for removing cremated remains [Repealed effective January 1, 2027]
- 103060. Permit for removing cremated remains [Operative January 1, 2027]
- 103065. Issuance of permit for disposition
- 103070. Permit for holding body pending disposition
- 103075. Permits accompanying body
- 103080. Endorsement on, and return of, permit; Authorized destruction
- 103085. Permits for remains transported into State
- 103090. Funeral director's removal of body from district
- 103095. Validity of permit in county
- 103100. Permit for interment in cemetery extending into two districts
- 103105. Disinterment and removal permits

**HISTORY:** Added Stats 1995 ch 415 § 4.

### § 103050. Required certificate and permit; Exceptions

(a) A person shall not dispose of human remains unless both of the following have occurred:

(1) There has been obtained and filed with a local registrar a death certificate, as provided in Chapter 6 (commencing with Section 102775).

(2) There has been obtained from a local registrar a permit for disposition.

(b)(1) Notwithstanding subdivision (a), neither a death certificate nor a permit for disposition shall be required to transport human remains from California to an adjacent state for disposition in that state when all of the following circumstances exist:

(A) The remains are found within 50 miles of the California border and a licensed funeral establishment in the adjacent state is within 30 miles of the county border in which the decedent died, and the remains are released to that funeral establishment.

(B) The coroner with jurisdiction over the area in which the remains were found authorizes their release pursuant to paragraph (2).

(2) The coroner may release the remains to a licensed out-of-state funeral establishment without a death certificate or permit for disposition when he or she determines that all of the following conditions exist:

(A) No forensic interest in the remains exists.

(B) A reasonable certainty exists that the cause of death will be provided either by the primary physician, or by a review of medical records by the coroner or medical examiner.

(3) The coroner with jurisdiction over the area in which the remains were found who releases the remains to an out-of-state funeral establishment shall, within 72 hours after the remains were found, file a death certificate with the local registrar.

(c) Nothing in this section shall exempt a coroner, health officer, health care provider, or other individual from requirements to report a case or suspected case of any reportable communicable diseases or conditions pursuant to any provision of the Health and Safety Code or the California Code of Regulations.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2006 ch 463 § 2 (AB 2105), effective January 1, 2007; Stats 2017 ch 187 § 1 (AB 356), effective January 1, 2018.

### § 103055. Issuance of permit [Repealed effective January 1, 2027]

(a) If the certificate of death is properly executed and complete, the local registrar of births and deaths shall issue a permit for disposition that, in all cases, shall specify any one of the following:

(1) The name of the cemetery where the remains shall be interred.

(2) Burial at sea as provided in Section 7117.

(3) The address or description of the place where remains shall be buried or scattered.

(4) The address of the location where the cremated remains or hydrolyzed human remains will be kept, as provided in Section 7054.6, under the conditions the state registrar may approve, including, but not limited to, conditions in keeping with public sensibilities, applicable laws, and reasonable assurances that the disposition will be carried out in accordance with the prescribed conditions and will not constitute a private or public nuisance.

(b) Notwithstanding any other provisions of this part relative to issuance of a permit for disposition, whenever the death occurred from a disease declared by the state department to be infectious, contagious, or communicable and dangerous to the public health, a permit for the disposition of the body shall not be issued by the local registrar, except under those conditions as may be prescribed by the state department and local health officers.

(c) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 71 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2018 ch 92 § 148 (SB 1289), effective January 1, 2019, operative July 1, 2020; Stats 2022 ch 399 § 46 (AB 351), effective January 1, 2023, repealed January 1, 2027.

#### **§ 103055. Issuance of permit [Operative January 1, 2027]**

(a) If the certificate of death is properly executed and complete, the local registrar of births and deaths shall issue a permit for disposition that, in all cases, shall specify any one of the following:

(1) The name of the cemetery where the remains shall be interred.

(2) Burial at sea as provided in Section 7117.

(3) The address or description of the place where remains shall be buried, scattered, or integrated into the soil.

(4) The address of the location where the cremated, reduced, or hydrolyzed human remains will be kept, as provided in Section 7054.5 or 7054.6, under the conditions the state registrar may approve, including, but not limited to, conditions in keeping with public sensibilities, applicable laws, and reasonable assurances that the disposition will be carried out in accordance with the prescribed conditions and will not constitute a private or public nuisance.

(b) Notwithstanding any other provisions of this part relative to issuance of a permit for disposition, whenever the death occurred from a disease declared by the department to be infectious, contagious, or communicable and dangerous to the public health, a permit for the disposition of the body shall not be issued by the local registrar, except under those conditions as may be prescribed by the state department and local health officers.

(c) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 47 (AB 351), effective January 1, 2023, operative January 1, 2027.

#### **§ 103060. Permit for removing cremated remains [Repealed effective January 1, 2027]**

(a) A permit for disposition for the purpose of removing cremated remains or hydrolyzed human remains from the place of cremation, hydrolysis, or interment shall include a description of the final place of disposition sufficient to identify the place and shall be issued by the local registrar to the person having the right to control the disposition of the remains under Section 7100 upon the application of that person.

(b) A permit for disposition shall be issued under this section only upon the signed acknowledgment by the person making application that trespass and nuisance laws apply to the disposition and that the permit gives no right of unrestricted access to property not owned by the person for the purpose of disposing of the remains.

(c) The person to whom the permit for disposition was issued shall sign the permit, endorse upon it the date of final disposition and, within 10 days, return the first copy of the permit so endorsed to the local registrar of the district in which the disposition took place. The third copy of the permit shall be returned to the office of issuance. After one year, the local registrar may destroy any original or duplicate permit retained pursuant to this section.

(d) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 2017 ch 846 § 73 (AB 967), effective January 1, 2018, operative July 1, 2020. Amended Stats 2022 ch 399 § 48 (AB 351), effective January 1, 2023, repealed January 1, 2027.

#### **§ 103060. Permit for removing cremated remains [Operative January 1, 2027]**

(a) A permit for disposition for the purpose of removing cremated, reduced, or hydrolyzed human remains from the place of cremation, reduction, hydrolysis, or interment shall include a description of the final place of disposition sufficient to identify the place and shall be issued by the local registrar upon application of the person having the right to control the disposition of the remains under Section 7100.

(b) A permit for disposition shall be issued under this section only upon the signed acknowledgment by the person making application that trespass and nuisance laws apply to the disposition and that the permit gives no right of unrestricted access to property not owned by the person for the purpose of disposing of the remains.



(c) The person to whom the permit for disposition was issued shall sign the permit, endorse upon it the date of final disposition and, within 10 days, return the first copy of the permit so endorsed to the local registrar of the district in which the disposition took place. The third copy of the permit shall be returned to the office of issuance. After one year, the local registrar may destroy any original or duplicate permit retained pursuant to this section.

(d) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2022 ch 399 § 49 (AB 351), effective January 1, 2023, operative January 1, 2027.

### **§ 103065. Issuance of permit for disposition**

(a) Upon the presentation of a certificate of death properly executed and completed in accordance with the policies and procedures of the county coroner in which the death occurred that are not in conflict with state law, the permit for disposition required by Sections 103050, 103055, and 103060 shall be issued by any local registrar pursuant to this section. The local registrar issuing the permit for disposition pursuant to this section shall promptly forward the death certificate and a duplicate of the permit for disposition to the local registrar of the district in which death occurred or the body was found.

(b) The applicant for a permit under this section shall pay a fee of six dollars (\$6) to the issuing registrar. Thirty percent of the fee shall be transferred by the issuing registrar to the local registrar of the county where the death occurred and 40 percent shall be transferred to the State Registrar for the administration of this section.

(c) Applicants for a permit for disposition pursuant to this section shall not be subject to Section 103675.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 103070. Permit for holding body pending disposition**

The body of any person whose death occurs in this state, or whose body is found in the state, or that is brought in from outside the state, shall not be temporarily held pending disposition more than eight calendar days after death, unless a permit for disposition is issued by the local registrar of the registration district in which the death occurred or the body was found.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 103075. Permits accompanying body**

Except when a permit is not required to be issued pursuant to subdivision (b) of Section 103050, the permit shall accompany the body to its destination, where, if within this state, it shall be delivered to the person in charge of the place of interment.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2006 ch 463 § 3 (AB 2105), effective January 1, 2007.

### **§ 103080. Endorsement on, and return of, permit; Authorized destruction**

(a) The person in charge of the place of interment, or the funeral director or person acting as funeral director if no person is in charge, shall sign the permit, endorse upon it the date of interment, hydrolysis, or cremation, and, within 10 days, return the first copy of the permit so endorsed to the local registrar of the district in which the interment took place. The third copy of the permit shall be returned to the office of issuance. After one year, the local registrar may destroy any original or duplicate permit retained by the local registrar pursuant to this section.

(b) This section shall become operative on July 1, 2020.

**HISTORY:** Added Stats 2017 ch 846 § 75 (AB 967), effective January 1, 2018, operative July 1, 2020.

### **§ 103085. Permits for remains transported into State**

When human remains are transported from outside the state into a registration district in California for interment, the permit for disposition, issued in accordance with the law and health regulations of the place where the death occurred, shall be accepted by the local registrar of the district into which the human remains have been transported, as a basis upon which he or she shall issue a local permit, noting upon the face of the permit the fact that human remains were shipped in for interment and the place of death.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103090. Funeral director's removal of body from district**

This chapter does not prevent a funeral director from removing a body from the registration district where the death occurred or the body was found to another registration district in the same or another county in a funeral director's conveyance for the purpose of preparing the body for interment or shipment.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103095. Validity of permit in county**

A permit issued in one county or city is valid and sufficient in any county it specifies as the place of interment.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103100. Permit for interment in cemetery extending into two districts**

If any cemetery is located partly in one registration district and partly in another, only one permit shall be required for interment and a permit authorizing interment in the cemetery shall entitle interment to be made within or without the district to which the permit is directed. The permit shall be returned to the registration district in which the interment is made irrespective of the district to which it is directed. The local registrar of the district in which the interment is made shall forthwith file the permit on presentation without charge.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103105. Disinterment and removal permits**

Permits for the disinterment or removal of interred remains shall be required, as specified in Part 2 (commencing with Section 7500) of Division 7.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**CHAPTER 11 AMENDMENT OF RECORDS****Article**

1. Amendment of a Record of Birth, Death or Marriage.
2. Amendment of a Death Record of a Previously Unidentified Body.
3. Amendment of Medical and Health Section Data on Death, Fetal Death, and Live Birth Records.

**HISTORY:** Added Stats 1995 ch 415 § 4.

**ARTICLE 1 AMENDMENT OF A RECORD OF BIRTH, DEATH OR MARRIAGE****Section**

103225. Affidavit stating necessary changes; Supporting affidavit
103230. Effect of absence of conflicting information relative to parentage
103235. Amendment of untransmitted certificate
103240. Amendment of transmitted certificate
103245. State Registrar's transmittal of approved amendment
103250. Copy of amendment to applicant
103255. Filing of amendment
103260. Request for new birth certificate based on racial descriptor
103265. Amended certificate of death for peace officer killed in line of duty

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103225. Affidavit stating necessary changes; Supporting affidavit**

Whenever the facts are not correctly stated in any certificate of birth, death, fetal death, or marriage already registered, the person asserting that the error exists may make an affidavit under oath stating the changes necessary to make the record correct, that shall be supported by the affidavit of one other credible person having knowledge of the facts, and file it with the state or local registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103230. Effect of absence of conflicting information relative to parentage**

Section 103225 shall be applicable to certificates of birth only in the absence of conflicting information relative to parentage on the originally registered certificate of birth.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103235. Amendment of untransmitted certificate**

If the amendment relates to a certificate or marriage license that has not been transmitted to the State Registrar, the local registrar shall review the amendment for acceptance for filing, and if accepted shall file the amendment and shall note the fact of the amendment, with its date, on the otherwise unaltered original certificate or marriage license.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2006 ch 816 § 49 (AB 1102), effective January 1, 2007, operative January 1, 2008.

**§ 103240. Amendment of transmitted certificate**

If the amendment relates to a certificate that has been transmitted to the State Registrar, the amendment shall be transmitted to the State Registrar who shall review it for acceptance for filing.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103245. State Registrar's transmittal of approved amendment**

If the amendment is accepted, the State Registrar shall transmit copies of the amendment to the county recorder in whose offices copies of the original record and information are on file. The State Registrar shall also transmit copies of the amendment to that county's local registrar only if the amendment is made within two years of the registration of the original record.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2018 ch 147 § 5 (AB 2561), effective January 1, 2019.

**§ 103250. Copy of amendment to applicant**

The State Registrar shall send a certified copy of the newly amended record of birth, death or marriage to the applicant without additional charge, except for those amendments that are filed within one year of the date of occurrence of the event.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103255. Filing of amendment**

The amendment shall be filed with and become a part of the record to which it pertains.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103260. Request for new birth certificate based on racial descriptor**

(a) A person born in this state whose birth is registered in this state, or the person's conservator, or if a minor, the person's parent or guardian, may submit a written request to the state registrar for a new birth certificate on the ground that his or her existing birth certificate contains a derogatory, demeaning, or colloquial racial descriptor. For purposes of this section, a derogatory, demeaning, or colloquial racial descriptor means any term that the registrant determines is insulting to a racial group.

(b) The State Registrar shall review the request, and if the request identifies the term that the registrant has determined is a derogatory, demeaning, or colloquial racial descriptor, identifies the accurate racial descriptor, and is accompanied with the payment of the fee required by Section 103700, then the State Registrar shall issue a new birth certificate with the accurate racial descriptor identified in the request and shall transmit copies of the new birth certificate to the following:

(1) The local registrar and county recorder in whose offices copies of the previously issued birth certificate are on file. Upon receipt of the new birth certificate, the local registrar and county recorder shall transmit any copies of the previously issued birth certificate to the State Registrar if it is practical for him or her to do so. If it is impractical for him or her to forward all the copies to the state registrar, he or she shall effectively seal a cover over the copy in a manner as not to deface or destroy the copy and forward a verified statement of his or her action to the state registrar.

(2) The registrant.

(c) The new birth certificate shall supplant any previously issued birth certificate registered for the registrant and shall be the only birth certificate of the registrant open to public inspection. The request and previously issued birth certificate shall remain as part of the records of the State Registrar. All records and information referred to in this section, other than the newly issued birth certificate, shall be available only upon the written request of the registrant or an order of a court of competent jurisdiction.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103265. Amended certificate of death for peace officer killed in line of duty**

An amended certificate of death of an individual who is a peace officer pursuant to Section 830 of the Penal Code, who was killed in the line of duty, shall be processed immediately upon acceptance for filing and

shall be issued by the State Registrar or local registrar no later than 10 business days following acceptance for filing.

**HISTORY:** Added Stats 2003 ch 307 § 2 (AB 540).

## **ARTICLE 2 AMENDMENT OF A DEATH RECORD OF A PREVIOUSLY UNIDENTIFIED BODY**

Section

103275. Registration by coroner

103280. Manner of handling

**HISTORY:** Added Stats 1995 ch 415 § 4.

### **§ 103275. Registration by coroner**

The coroner having jurisdiction shall register with the local registrar of births and deaths a certificate of death giving the name of the person and all statistical particulars that have been discovered concerning him or her, in the case of the identification of a person previously unidentified at the time of the original registration of the death.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 103280. Manner of handling**

This amendment to the record shall be handled in the manner prescribed in Article 1 (commencing with Section 103225).

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

## **ARTICLE 3 AMENDMENT OF MEDICAL AND HEALTH SECTION DATA ON DEATH, FETAL DEATH, AND LIVE BIRTH RECORDS**

Section

103300. Physician's and coroner's declaration

103305. Manner of handling

**HISTORY:** Added Stats 1995 ch 415 § 4.

### **§ 103300. Physician's and coroner's declaration**

Notwithstanding other provisions in this part relative to amendment of records, whenever the information originally furnished in the medical and health data section of any record of death, fetal death or live birth is modified by supplemental information relative thereto, the certifying physician or coroner having knowledge of this information may make a declaration as provided in Section 2015.5 of the Code of Civil Procedure stating the changes necessary to make the information correct and file it with the state or local registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 103305. Manner of handling**

This amendment shall be handled in the manner prescribed in Article 1 (commencing with Section 103225).

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

## **CHAPTER 12 COURT PROCEEDINGS TO ESTABLISH RECORD OF BIRTH, DEATH OR MARRIAGE**

Section

103450. Filing petition

103451. "Mass fatalities" defined

103455. Verification and contents of petition

103460. Petition's contents and verification if time and place of birth unknown

103465. Hearing; Continuance

103466. Time for filing petition for determination of fact of death in mass fatality incident; Notice

103470. Filing fee; Judge hearing petition

103475. Order determining facts alleged and proved

103480. Evidence if time and place of birth unknown, and order thereon

103485. Form and effective date of order, and presumption thereunder

103490. Sending copies of order to local registrar and county recorder

**HISTORY:** Added Stats 1995 ch 415 § 4.

### **§ 103450. Filing petition**

(a) A verified petition may be filed by any beneficially interested person with the clerk of the superior court in and for (1) the county in which the birth, death, or marriage is alleged to have occurred, (2) the county of residence of the person whose birth or marriage it is sought to establish, or (3) the county in which the person was domiciled at the date of death for an order to judicially establish the fact of, and the time and place of, a birth, death, or marriage that is not registered or for which a certified copy is not obtainable.

(b) In the event of a mass fatalities incident, a verified petition may be filed by a coroner, medical examiner, or any beneficially interested person with the clerk of the superior court in and for (1) the county in which the death is alleged to have occurred, or (2) the county in which the person was domiciled at the date of death for an order to judicially establish the fact of, and the time and place of, a death that is not registered or for which a certified copy of the death certificate is not obtainable.

(c) In the event of a mass fatalities incident, a single verified petition with respect to all persons who died may be filed by a coroner or medical examiner with the clerk of the superior court in and for the county in which the mass fatalities incident occurred for an order to judicially establish the fact of, and the time and place of, each person's death that is not registered or for which a certified copy of the death certificate is not obtainable.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2002 ch 717 § 1 (AB 1872).

### **§ 103451. "Mass fatalities" defined**

(a) For purposes of this chapter, "mass fatalities incident" means a situation in which any of the following conditions exist:

(1) There are more dead bodies than can be handled using local resources.

(2) Numerous persons are known to have died, but no bodies were recovered from the site of the incident.

(3) Numerous persons are known to have died, but the recovery and identification of the bodies of those persons is impracticable or impossible.

(b) The county coroner or medical examiner may make the determination that a condition described in subdivision (a) exists.

**HISTORY:** Added Stats 2002 ch 717 § 2 (AB 1872).

### **§ 103455. Verification and contents of petition**

The petition shall be verified and shall contain all the facts necessary to enable the court to determine the fact of and the time and place of the birth, death, or marriage upon the proofs adduced in behalf of the petitioner at the hearing.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 103460. Petition's contents and verification if time and place of birth unknown**

If the time and place of birth are not known, the petition shall contain all of the facts known to the petitioner or otherwise available and a statement of the probable time and place of birth as accurately as the circumstances permit. The petition shall be verified as to the known facts only.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 103465. Hearing; Continuance**

Upon the filing of the petition a hearing shall be fixed by the clerk and at the convenience of the court set at a time not less than five nor more than 10 days after the filing of the petition. The hearing may be held in chambers. The court, for good cause, may continue the hearing beyond the 10-day period.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

### **§ 103466. Time for filing petition for determination of fact of death in mass fatality incident; Notice**

Notwithstanding Section 103465, upon the filing of a petition for a determination of the fact of death in the event of a mass fatalities incident, the clerk shall set a hearing no later than 15 days from the date the petition was filed. The petitioner shall make a reasonable effort to provide notice of the hearing to the known heirs of the deceased up to the second degree of relationship. Failure to provide the notice specified in this section shall not invalidate the judicial proceedings regarding the determination of the fact of death.

**HISTORY:** Added Stats 2002 ch 717 § 3 (AB 1872).



**§ 103470. Filing fee; Judge hearing petition**

The fee for filing the petition is two hundred five dollars (\$205). This fee shall be distributed as provided in Section 68085.4 of the Government Code. The petition may be heard by any judge hearing probate matters, or if a probate department has been designated for hearing probate matters, the matter shall be assigned to the probate department for hearing.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2005 ch 75 § 144 (AB 145), effective July 19, 2005, operative January 1, 2006; Stats 2008 ch 311 § 26 (SB 1407), effective January 1, 2009; Stats 2009–2010 4th Ex Sess ch 22 § 28 (SBX4 13), effective July 28, 2009.

**§ 103475. Order determining facts alleged and proved**

If, upon the hearing, the allegations of the petition are established to the satisfaction of the court, the court may make an order determining that the birth, death, or marriage did in fact occur at the time and place shown by the proofs adduced at the hearing.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103480. Evidence if time and place of birth unknown, and order thereon**

If the time and place of birth are not known, the court shall receive and consider evidence and testimony as may be available and from the facts adduced may, by order, fix the time and place that the court finds to be a probable time and place of birth of the person in relation to whom the petition has been filed, as the time and place of birth. The time and place so fixed shall thereafter for all purposes be the time and place of birth of the person.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103485. Form and effective date of order, and presumption thereunder**

The order shall be made in the form and upon the blank prescribed and furnished by the State Registrar and shall become effective upon a filing of a certified copy with the State Registrar.

Every order determining the date of birth made pursuant to this chapter shall establish a presumption that the matter contained therein is a true and accurate statement of the time of birth. The presumption established by this section is a presumption affecting the burden of proof.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103490. Sending copies of order to local registrar and county recorder**

(a) The State Registrar shall send certified copies of the court order delayed certificate to the local registrar and the county recorder within the area in which the event occurred and in whose offices copies of records of the year of occurrence of the event are on file. However, if the event occurred outside the state, a certified copy shall be sent only to the county recorder of the county in which the petitioner resides.

(b) In the event of a mass fatalities incident, the State Registrar, without delay, shall send certified copies of the court order delayed death certificate to the local registrar and the county recorder of the county in which the incident occurred and in whose offices copies of records of the year of occurrence of the incident are on file. The State Registrar, without delay, also shall send a certified copy of the court order delayed death certificate to the spouse or next of kin of the decedent, if there is no spouse, provided the spouse or next of kin's name and address information are included in the court order or on the application form submitted by the spouse, next of kin, coroner, or medical examiner. However, if the incident occurred outside the state, a certified copy shall be sent only to the county recorder of the county in which the decedent was domiciled at the date of death.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2002 ch 717 § 4 (AB 1872).

**CHAPTER 13 RECORDING CERTIFICATION OF FOREIGN BIRTHS AND DEATHS****Section**

103501. Certified copy of foreign birth or death recorded in county as official record of county recorder

103505. Indexing

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103501. Certified copy of foreign birth or death recorded in county as official record of county recorder**

A county recorder shall issue a certified copy of a foreign birth or death recorded in the office of the county recorder only as an official record of the county recorder, as defined in subdivision (a) of Section 27300 of

the Government Code, and not as a certified copy of a vital record pursuant to Chapter 14 (commencing with Section 103525) of Part 1 of Division 102.

**HISTORY:** Added Stats 2009 ch 332 § 76.5 (SB 113), effective January 1, 2010.

### § 103505. Indexing

(a) A certification of birth or death outside of the United States shall not be recorded by the county recorder.

(b) This section shall not apply to any court-order-delayed birth certificate or court-order-delayed death certificate issued pursuant to Chapter 12 (commencing with Section 103450) of Part 1 of Division 102.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2009 ch 332 § 76.7 (SB 113), effective January 1, 2010.

## CHAPTER 14 CERTIFIED COPY AND VERIFICATION OF RECORDS

### Section

- 103525. Certified copy on request
- 103525.5. Additional fee for certified copy of birth, death, or marriage record; Allocation of fee
- 103526. Application by authorized persons; Electronic verification of identity; Informational copies; "Authorized person"
- 103526. Application for certified copy; Informational copies; "Authorized person"; Exceptions [Repealed]
- 103526.5. Contents and form of certified copy of birth, death, or marriage record
- 103526.6. Study by State Registrar of security features for paper used to print vital records; Submission of report and recommendations to Legislature
- 103527. Appointment of Vital Records Protection Advisory Committee
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- 103540. Certified copy of birth certificate issued for person whose death noted to bear legend "DECEASED"
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- 103577. Issuance of certified record of live birth to homeless person or homeless child or youth
- 103578. Issuance of free record of live birth to youth in foster care
- 103580. Use of facsimile signature in certifying
- 103585. Prohibited inclusion of specified information in dissolution of marriage, annulment and separate maintenance records
- 103590. Decorative heirloom certificate

**HISTORY:** Added Stats 1995 ch 415 § 4.

### § 103525. Certified copy on request

(a) The State Registrar, local registrar, or county recorder shall, upon request and payment of the required fee, supply to an applicant a certified copy of the record of a birth, fetal death, death, marriage, or marriage dissolution registered with the official.

When the original forms of certificates of live birth furnished by the State Registrar contain a printed section at the bottom containing medical and social data or labeled "Confidential Information for Public Health Use Only," that section shall not be reproduced in a certified copy of the record except as specifically authorized in Section 102430.

(b) Notwithstanding subdivision (a) or any other law, the State Registrar, local registrar, or county recorder shall provide certified copies of birth, death, and marriage records only as authorized under Section 103526 or 103526.5.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2002 ch 914 § 1 (SB 247); Stats 2009 ch 412 § 5 (AB 130), effective January 1, 2010.

### § 103525.5. Additional fee for certified copy of birth, death, or marriage record; Allocation of fee

(a)(1) Until January 1, 2006, in addition to the fees prescribed by Sections 103625 and 103626, an applicant for a certified copy of a birth or death record shall pay an additional fee of two dollars (\$2). Commencing January 1, 2006, this fee shall be reduced to one dollar (\$1).

(2) Commencing January 1, 2010, in addition to the fees prescribed by Sections 103625 and 103626, an applicant for a certified copy of a marriage record shall pay an additional fee of one dollar (\$1).

(b) Until January 1, 2006, each local registrar or county recorder collecting the fee pursuant to this section shall transmit one dollar and sixty-five cents (\$1.65) of the fee to the State Registrar by the 10th day of the month following the month in which the fee was received. Commencing January 1, 2006, each local registrar or county recorder collecting the fee pursuant to this section shall transmit sixty-five cents (\$.65) of the fee to

the State Registrar by the 10th day of the month in which the fee was received. These funds, and fees collected by the State Registrar pursuant to this section, shall be used by the State Registrar, upon appropriation by the Legislature, to develop safety and security measures to protect against fraudulent use of birth, death, and marriage records, including, but not limited to, computerizing records, redacting and removing signatures as required by law, and electronically distributing redacted records to local registrars and county recorders for their use in complying with Sections 103526 and 103526.5.

(c) Thirty-five cents (\$0.35) of the fee specified in subdivision (a) shall be retained by the public official charged with the collection of the fee to defray the costs of the additional security features required by Sections 103526 and 103526.5.

(d) The entire amount of the fee collected pursuant to subdivision (a) by the State Registrar shall be retained and used by the State Registrar, upon appropriation by the Legislature, for the purpose specified in subdivision (b). The entire amount of the fee collected by the local registrar or county recorder pursuant to subdivision (c) shall be retained and used by that official for the purpose specified in subdivision (c).

**HISTORY:** Added Stats 2002 ch 914 § 2 (SB 247). Amended Stats 2009 ch 412 § 6 (AB 130), effective January 1, 2010.

**§ 103526. Application by authorized persons; Electronic verification of identity; Informational copies; “Authorized person”**

(a)(1) If the State Registrar, local registrar, or county recorder receives a written, faxed, electronic, or digitized image of a request for a certified copy of a birth, death, or marriage record pursuant to Section 103525 that is accompanied by a notarized statement sworn under penalty of perjury, an electronic verification of identity accompanied by an electronic statement sworn under penalty of perjury, or a faxed copy or digitized image of a notarized statement sworn under penalty of perjury, that the applicant is an authorized person, as defined in this section, that official may furnish a certified copy to the applicant pursuant to Section 103525.

(2) A faxed or digitized image of the notary acknowledgment accompanying a faxed request received pursuant to this subdivision for a certified copy of a birth, death, or marriage record shall be legible and, if the notary's seal is not photographically reproducible, show the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment. If a request for a certified copy of a birth, death, or marriage record is made in person, the official shall take a statement sworn under penalty of perjury that the applicant is signing the applicant's own legal name and is an authorized person, and that official may then furnish a certified copy to the applicant.

(3)(A) If a request for a certified copy of a birth, death, or marriage record is made electronically, the official may accept an electronic verification authenticating the identity of the applicant using a multilayered remote identity proofing process that complies with all of the following requirements:

(i)(I) Meets or exceeds the National Institute of Standards and Technology (NIST) Special Publication 800-63A Digital Identity Guidelines, or its successor publication, on electronic authentication guidelines for multilayered remote identity proofing.

(II) Verifies to Identity Assurance Level 2, as described within these guidelines.

(III) The verification pursuant to this clause shall occur as required by these guidelines, which may include record checks with the state or local agency, a credit reporting agency, or a similar database, knowledge-based verification, physical comparison, and biometric comparison.

(IV) Notwithstanding subclause (III), the verification pursuant to this clause shall not occur through biometric comparison. This subclause shall remain in effect only until January 1, 2025, and as of that date is inoperative.

(V) Completes a privacy risk assessment, as required by these guidelines.

(ii) Meets or exceeds the information security requirements of the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code) and the Federal Information Security Management Act of 2002 (Public Law 107-347) and all other applicable state and federal laws and regulations to protect the personal information of the applicant and guard against identity theft.

(iii) Retains for each electronic verification, as required by the NIST Special Publication 800-63A Digital Identity Guidelines, or its successor publication, a record of the applicant whose identity has been verified and the steps taken to verify the identity. Personal information and documents provided to the State Registrar, local registrar, or county recorder for the purpose of identity verification to acquire vital records shall not be used, shared, distributed, or accessed by any other state or municipal agency or third party for any other purpose.

(B) If an applicant's identity cannot be established electronically pursuant to this paragraph, the applicant shall include with the applicant's request a statement of identity notarized pursuant to paragraph (1).

(4) For purposes of this subdivision, "digitized image" means an image of an original paper request for a certified copy of a birth, death, or marriage record.

(b)(1) If the person requesting a certified copy of a birth, death, or nonconfidential marriage record is not an authorized person or is an authorized person who is otherwise unable to satisfy the requirements of subdivision (a), the certified copy provided to the applicant shall be an informational certified copy and shall display a legend that states "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY." The legend shall be placed on the certificate in a manner that will not conceal information.

(2) If the person requesting a certified copy of a confidential marriage record is not an authorized person or is an authorized person who is otherwise unable to satisfy the requirements of subdivision (a), the official shall not release a certified copy of the confidential marriage record unless otherwise authorized by law.

(c) For purposes of this section, an "authorized person" means:

(1) For purposes of requests for certified copies of confidential marriage records, only a party to the confidential marriage.

(2) For purposes of requests for certified copies of birth, death, or nonconfidential marriage records, a person who is any of the following:

(A) The registrant or a parent or legal guardian of the registrant.

(B) A party entitled to receive the record as a result of a court order, or an attorney or a licensed adoption agency seeking the birth record in order to comply with the requirements of Section 3140 or 7603 of the Family Code.

(C) A member of a law enforcement agency or a representative of another governmental agency, as provided by law, who is conducting official business.

(D) A child, grandparent, grandchild, sibling, spouse, or domestic partner of the registrant.

(E) An attorney representing the registrant or the registrant's estate, or any person or agency empowered by statute or appointed by a court to act on behalf of the registrant or the registrant's estate.

(3) For purposes of requests for certified copies of death records, an authorized person is also a person who is any of the following:

(A) An individual described in paragraphs (1) to (8), inclusive, of subdivision (a) of Section 7100.

(B) An agent or employee of a funeral establishment who acts within the course and scope of the agent or employee's employment and who orders certified copies of a death certificate on behalf of an individual described in paragraphs (1) to (8), inclusive, of subdivision (a) of Section 7100.

(d) A person who asks the agent or employee of a funeral establishment to request a death certificate on the person's behalf warrants the truthfulness of the person's relationship to the decedent and is personally liable for all damages occasioned by, or resulting from, a breach of that warranty.

(e) Notwithstanding any other law:

(1) A member of a law enforcement agency or a representative of a state or local government agency, as provided by law, who orders a copy of a record to which subdivision (a) applies in conducting official business shall not be required to provide the notarized statement required by subdivision (a).

(2) An agent or employee of a funeral establishment who acts within the course and scope of the agent or employee's employment and who orders death certificates on behalf of individuals specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100 shall not be required to provide the notarized statement required by subdivision (a).

(f) Informational certified copies of birth and death certificates issued pursuant to subdivision (b) shall only be printed from the single statewide database prepared by the State Registrar and shall be electronically redacted to remove any signatures for purposes of compliance with this section. Local registrars and county recorders shall not issue informational certified copies of birth and death certificates from a source other than the statewide database prepared by the State Registrar. This subdivision shall become operative on July 1, 2007, but only after the statewide database becomes operational and the full calendar year of the birth and death indices and images is entered into the statewide database and is available for the respective year of the birth or death certificate for which an informational copy is requested. The State Registrar shall provide written notification to local registrars and county recorders as soon as a year becomes available for issuance from the statewide database.

(g) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made to this section by the act that added this subdivision through an all-county letter or similar instructions from the State Registrar without taking regulatory action.



**HISTORY:** Added Stats 2002 ch 914 § 3 (SB 247), operative July 1, 2003. Amended Stats 2004 ch 6 § 3 (AB 1179), effective January 22, 2004; Stats 2005 ch 430 § 6 (AB 1278), effective January 1, 2006; Stats 2006 ch 74 § 31 (AB 1807), effective July 12, 2006; Stats 2009 ch 412 § 7 (AB 130), effective January 1, 2010; Stats 2013 ch 78 § 3 (AB 464), effective January 1, 2014; Stats 2016 ch 527 § 1 (AB 2636), effective January 1, 2017, repealed January 1, 2021; Stats 2017 ch 561 § 128 (AB 1516), effective January 1, 2018, repealed January 1, 2021; Stats 2018 ch 131 § 1 (AB 2750), effective January 1, 2019, repealed January 1, 2021; Stats 2020 ch 302 § 6 (SB 406), effective September 29, 2020, repealed January 1, 2022; Stats 2021 ch 623 § 1 (AB 751), effective January 1, 2022.

## **§ 103526. Application for certified copy; Informational copies; “Authorized person”; Exceptions [Repealed]**

**HISTORY:** Added Stats 2016 ch 527 § 2 (AB 2636), effective January 1, 2017, operative January 1, 2021. Amended Stats 2017 ch 561 § 129 (AB 1516), effective January 1, 2018, operative January 1, 2021; Stats 2018 ch 131 § 2 (AB 2750), effective January 1, 2019, operative January 1, 2021; Stats 2020 ch 302 § 7 (SB 406), effective September 29, 2020, operative January 1, 2022. Repealed Stats 2021 ch 623 § 2 (AB 751), effective January 1, 2022.

### **§ 103526.5. Contents and form of certified copy of birth, death, or marriage record**

(a) Each certified copy of a birth, death, or marriage record issued pursuant to Section 103525 shall include the date issued, the name of the issuing officer, the signature of the issuing officer, whether that is the State Registrar, local registrar, county recorder, or county clerk, or an authorized facsimile thereof, and the seal of the issuing office.

(b) All certified copies of birth, death, and marriage records issued pursuant to Section 103525 shall be printed on chemically sensitized security paper that measures 8 ½ inches by 11 inches and that has the following features:

- (1) Intaglio print.
- (2) Latent image.
- (3) Fluorescent, consecutive numbering with matching barcode.
- (4) Microprint line.
- (5) Prismatic printing.
- (6) Watermark.
- (7) Void pantograph.
- (8) Fluorescent security threads.
- (9) Fluorescent fibers.
- (10) Any other security features deemed necessary by the State Registrar.

(c)(1) The State Registrar may suspend the use of any security feature described in subdivision (b) if necessary to enable the State Registrar, local registrar, county recorder, or county clerk to supply an applicant with a certified copy of a birth, death, or marriage record issued pursuant to Section 103525.

(2) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement this subdivision through all-county letters or similar instructions from the State Registrar without taking regulatory action.

(d) The State Registrar, local registrars, county recorders, and county clerks shall take precautions to ensure that uniform and consistent standards are used statewide to safeguard the security paper described in subdivision (b), including, but not limited to, all of the following measures:

- (1) Security paper shall be maintained under secure conditions so as not to be accessible to the public.
- (2) A log shall be kept of all visitors allowed in the area where security paper is stored.
- (3) All spoilage shall be accounted for and subsequently destroyed by shredding on the premises.

(e)(1) In addition to the method required by subdivision (b), upon request, a county recorder may issue a certified copy of a birth, death, or marriage record issued pursuant to Section 103525 by means of verifiable credential using blockchain technology.

(2) A county recorder that issues a certified copy of a birth, death, or marriage record pursuant to paragraph (1) shall ensure that the release of the copy is subject to technical safeguards sufficient to prevent fraud, and to protect the document and its contents from unauthorized or illegal access, destruction, use, modification, and disclosure.

(3) For purposes of this subdivision, “blockchain technology” means a decentralized data system, in which the data stored is mathematically verifiable, that uses distributed ledgers or databases to store specialized data in the permanent order of transactions recorded.

(4) For purposes of this subdivision, “verifiable credential” means a cryptographically secure set of information that is both of the following:

- (A) Created in accordance with open standards that comply with all existing privacy protections.
- (B) Shared through a user-controlled, portable means that can be authenticated through publicly available services.



**HISTORY:** Added Stats 2002 ch 914 § 4 (SB 247), operative July 1, 2003. Amended Stats 2005 ch 430 § 7 (AB 1278), effective January 1, 2006; Stats 2006 ch 74 § 32 (AB 1807), effective July 12, 2006; Stats 2008 ch 433 § 1 (AB 1684), effective January 1, 2009; Stats 2009 ch 140 § 118 (AB 1164), effective January 1, 2010, ch 412 § 8 (AB 130) (ch 412 prevails), effective January 1, 2010; Stats 2010 ch 328 § 132 (SB 1330), effective January 1, 2011; Amended Stats 2016 ch 255 § 2 (AB 1546), effective September 9, 2016.; Stats 2022 ch 704 § 1 (SB 786), effective January 1, 2023.

**§ 103526.6. Study by State Registrar of security features for paper used to print vital records; Submission of report and recommendations to Legislature**

(a) The State Registrar, in consultation with the County Recorders' Association of California and other stakeholders, shall study all security features for paper used to print a vital record pursuant to Section 103525, or alternative security features that are equal to or better than those that are currently mandated.

(b)(1) On or before January 1, 2018, the State Registrar shall submit to the Legislature a report that contains the findings of the study conducted pursuant to subdivision (a) and legislative recommendations pertaining to those findings.

(2) A report submitted to the Legislature pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

**HISTORY:** Added Stats 2016 ch 255 § 3 (AB 1546), effective September 9, 2016.

**§ 103527. Appointment of Vital Records Protection Advisory Committee**

(a) The State Registrar shall appoint a Vital Records Protection Advisory Committee to study and make recommendations to protect individual privacy, inhibit identity theft, and prevent fraud involving birth, death, and marriage certificates while providing needed access to birth, death, and marriage record information to those seeking it for legitimate purposes. The committee shall have the following duties:

(1) Review and make recommendations as to the adequacy of procedures to safeguard individual privacy and prevent fraud, while ensuring appropriate access to birth, death, and marriage records.

(2) Make recommendations to the State Registrar as to items that should be redacted from informational certified copies of birth, death, and nonconfidential marriage certificates issued pursuant to Section 103526.

(3) Make recommendations to the State Registrar regarding fraud prevention measures concerning vital records.

(b) The committee shall include representatives from private and governmental entities that use vital records as identity or legal documents, consumers, law enforcement officials, genealogists, and organizations that research vital records for legal or social purposes. The State Registrar shall make every effort to ensure that committee membership also represents the community at large.

(c)(1) Except as provided in paragraph (2), membership on the committee shall be for a term of three years.

(2) Appointments shall be made on a staggered basis to allow for a change of one-third of the membership on an annual basis. One-third of the initial committee membership shall be appointed to one-year terms, and one-third of the initial committee membership shall be appointed to two-year terms.

**HISTORY:** Added Stats 2002 ch 914 § 5 (SB 247). Amended Stats 2009 ch 412 § 9 (AB 130), effective January 1, 2010.

**§ 103527.5. Reporting requirements [Repealed]**

**HISTORY:** Added Stats 2002 ch 914 § 5 (SB 247). Amended Stats 2009 ch 412 § 9 (AB 130), effective January 1, 2010. Repealed as of January 1, 2021, by its own provisions.

**§ 103528. Creation of automated system**

The department may create an automated system for the purposes of implementing Sections 103525, 103525.5, 103526, and 103526.5.

**HISTORY:** Added Stats 2002 ch 914 § 6 (SB 247).

**§ 103530. Information required for copies of amended birth certificates**

Certified copies of certificates of births shall be issued only when the applicant for the certified copy is able to furnish information, exclusive of file numbers, adequate for identification and location of the amended record.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103535. Issuing and filing copy of amended birth certificate returned to local registrar or county recorder**

Upon application of a parent, the local registrar or county recorder shall request a copy of a new birth certificate amended under Chapter 5 (commencing with Section 102625) from the State Registrar. When a re-

quest of this type is received, the State Registrar shall send a copy of the new certificate to the local registrar or county recorder who shall then issue certified copies from the document. The copy of the new certificate returned to the local registrar or county recorder under this procedure shall be filed in the same manner as the copies of other certificates representing births that occurred during the same time period.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 1996 ch 889 § 3 (AB 2755).

#### **§ 103540. Certified copy of birth certificate issued for person whose death noted to bear legend “DECEASED”**

Prior to issuing a certified copy of a birth record, the State Registrar, local registrar, or county recorder shall determine whether their respective birth records or index to the records have been revised pursuant to Section 102245 to indicate the death of the registrant whose birth record is requested. If the records or index have been so revised, the certified copy provided the applicant shall display the legend “DECEASED,” which shall be indelibly printed or stamped, in boldface style not less than one-half inch in height, within near proximity to the space reserved for the registrant’s name. The State Registrar shall adopt regulations to implement this section.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103545. Official making certified copies**

Certified copies of birth, fetal death, death, and marriage records may be made only by the State Registrar, by duly appointed and acting local registrars during their term of office, and by county recorders.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103550. Evidentiary effect of record or certified copy**

Any birth, fetal death, death, or marriage record that was registered within a period of one year from the date of the event under the provisions of this part, or any copy of the record or part thereof, properly certified by the State Registrar, local registrar, or county recorder, is prima facie evidence in all courts and places of the facts stated therein.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103555. Short form of birth certificate**

A short form of certification of birth registration that shall contain only identification information may be issued by the State Registrar, by the county recorder, or by any local registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103560. Short form of death certificate**

A short form of certification of death registration, including only identification information and excluding the medical statement of the cause of death, may be issued by the State Registrar, county recorder, or any local registrar, upon forms prescribed and furnished by the State Registrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103565. Vital statistics furnished United States Public Health Service on contract reimbursement basis**

The Office of the State Registrar, upon request, may furnish the United States Public Health Service with vital statistics relating to births, deaths, marriages, and marriage dissolutions for utilization in the national vital statistics program. Such vital statistics may be furnished on a contract reimbursement or other satisfactory basis that will insure that the reimbursement shall not be less than the cost to the state nor exceed the federal government’s fair share of the cost of the statewide vital statistics registration and reporting system.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103570. Certification limited to birth date of child**

A certification limited to a statement as to the date of birth of any child needed for admission to school or for the purpose of securing employment shall be issued without fee by the local registrar or county recorder upon request of any parents or guardian.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103575. Verification of date and place of birth**

The state or local registrar or county recorder may, without fee verify a date and place of birth, when the applicant can present sufficient information to identify the birth record.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103577. Issuance of certified record of live birth to homeless person or homeless child or youth**

(a) The local registrar, county recorder, or the State Registrar, shall, without an issuance fee or any other associated fee, issue a certified record of live birth to a person who can verify his or her status as a homeless person or a homeless child or youth. A homeless services provider that has knowledge of a person's housing status shall verify a person's status for the purposes of this subdivision. In accordance with all other application requirements, as set forth in Section 103526, a request for a certified record of live birth made pursuant to this subdivision shall be made by a homeless person or a homeless child or youth on behalf of themselves, or by a person lawfully entitled to request a certified record of live birth on behalf of a child, if the child has been verified as a homeless person or a homeless child or youth pursuant to this section. A person applying for a certified record of live birth under this subdivision is entitled to one birth record, per application, for each eligible person verified as a homeless person or a homeless child or youth. For purposes of this subdivision, an affidavit developed pursuant to subdivision (b) shall constitute sufficient verification that a person is a homeless person or a homeless child or youth. A person applying for a certified record of live birth under this subdivision shall not be charged a fee for verification of his or her eligibility.

(b) The State Department of Public Health shall develop an affidavit attesting to an applicant's status as a homeless person or homeless child or youth. The affidavit shall not be deemed complete unless it is signed by both the person making a request for a certified record of live birth pursuant to subdivision (a) and a homeless services provider that has knowledge of the applicant's housing status.

(c) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer this section through an all-county letter or similar instructions from the director or State Registrar without taking regulatory action.

(d) The State Registrar shall provide up to three copies per year of a certified record to a requester pursuant to this section, and may provide additional copies at his or her discretion.

(e) For the purposes of this section, the following definitions apply:

(1) A "homeless child or youth" has the same meaning as the definition of "homeless children and youths" as set forth in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.).

(2) A "homeless person" has the same meaning as the definition of that term set forth in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.).

(3) A "homeless services provider" includes:

(A) A governmental or nonprofit agency receiving federal, state, or county or municipal funding to provide services to a "homeless person" or "homeless child or youth," or that is otherwise sanctioned to provide those services by a local homeless continuum of care organization.

(B) An attorney licensed to practice law in this state.

(C) A local educational agency liaison for homeless children and youth, pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code, or a school social worker.

(D) A human services provider or public social services provider funded by the State of California to provide homeless children or youth services, health services, mental or behavioral health services, substance use disorder services, or public assistance or employment services.

(E) A law enforcement officer designated as a liaison to the homeless population by a local police department or sheriff's department within the state.

**HISTORY:** Added Stats 2014 ch 764 § 1 (AB 1733), effective January 1, 2015. Amended Stats 2015 ch 455 § 5 (SB 804), effective January 1, 2016; Stats 2018 ch 541 § 1 (AB 2490), effective January 1, 2019.

**§ 103578. Issuance of free record of live birth to youth in foster care**

(a) Each local registrar or county recorder shall, without a fee, issue a certified record of live birth to any person who demonstrates that he or she is a youth who has been placed in foster care, as defined in subdivision (f) of Section 11400 of the Welfare and Institutions Code. A county welfare agency that has relevant knowledge regarding the youth shall verify that the youth has been placed in foster care for purposes of this section. A certificate issued pursuant to this section shall not contain a stamp indicating that the certified record is for government use only.

(b) In accordance with all other application requirements as set forth in Section 103526, a request for a certified record of live birth made pursuant to this section shall be made by a youth who has been placed in foster care, on his or her own behalf, or by any person who is lawfully entitled to request a certified record of live birth on behalf of a youth placed in foster care. A person applying for a certified record of live birth pursuant to this section is entitled to one birth record per application for each eligible person verified as a youth who has been placed in foster care. For purposes of this subdivision, a completed affidavit as described in subdivision (c) is sufficient verification that a person is a youth placed in foster care. A person applying for a certified record of live birth pursuant to this section shall not be charged a fee for verification of his or her eligibility.

(c) The State Department of Public Health shall develop an affidavit attesting to an applicant's status as a youth placed in foster care. For purposes of this section, the affidavit shall not be deemed complete unless it is signed by both the person making a request for a certified record of live birth pursuant to subdivision (a) and a county welfare agency that has relevant knowledge regarding the youth to verify that the youth has been placed in foster care.

(d) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer this section through an all-county letter or similar instructions from the director or State Registrar without taking regulatory action.

(e) This section shall become operative on July 1, 2019.

**HISTORY:** Added Stats 2018 ch 551 § 1 (AB 2967), effective January 1, 2019, operative July 1, 2019.

#### **§ 103580. Use of facsimile signature in certifying**

The State Registrar, local registrar or county recorder may use a printed, stamped or photographically reproduced facsimile signature in certifying to a record in his or her office provided the certification has the seal of his or her office affixed thereto.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103585. Prohibited inclusion of specified information in dissolution of marriage, annulment and separate maintenance records**

Certified copies or certification of abstract information required to be filed under authority of Chapter 10 (commencing with Section 103200) in the offices of the State Registrar and county clerks shall not include information relative to occupation, highest school grade completed, color or race, religious denomination, previous marriages ended by death, divorce or annulment, or children.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103590. Decorative heirloom certificate**

(a) The State Registrar shall, upon request and payment of a fee, as provided in subdivision (c), supply to any applicant a decorative heirloom certificate, as described in subdivision (b), of any birth registered with that official.

When the original form of the certificate of a live birth furnished by the State Registrar contains a printed section at the bottom containing medical and social data or labeled "Confidential Information for Public Health Use Only," that section shall not be reproduced in the copy of the record. If the original form of the certificate of live birth has been sealed, the information on the sealed certificate shall not be included on the decorative heirloom certificate.

(b) The decorative heirloom certificate issued under subdivision (a) shall be of a distinctive design as determined by the department and shall include the seal of the State of California and a facsimile of the State Registrar's signature, but shall include no elected official's signature. The certificate shall only contain identification information, as determined by the State Registrar.

(c) The fee required for the decorative heirloom birth certificate issued pursuant to this section shall be thirty-two dollars (\$32) until December 31, 1988, at which time the fee shall be reduced to thirty dollars (\$30). Until December 31, 1988, not less than ten dollars (\$10) of the fee shall be allocated to the State Children's Trust Fund established in Section 18969 of the Welfare and Institutions Code. After December 31, 1988, not less than fifteen dollars (\$15) of the fee shall be allocated to the State Children's Trust Fund. The remainder of the fee shall be utilized to reimburse the State Department of Health Services and the State Registrar, in part, for the administrative costs of developing, preparing, and providing the decorative heirloom certificate.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**CHAPTER 15 FEES OF STATE AND LOCAL REGISTRARS**

## Article

1. General Provisions.
2. Fee for Certified Copy or Search of Records.
3. Other Fees.

**HISTORY:** Added Stats 1995 ch 415 § 4.

**ARTICLE 1 GENERAL PROVISIONS**

## Section

103600. Account of fees
103605. Health Statistics Special Fund
103610. Payment by local registrar

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103600. Account of fees**

The State Registrar and local registrars shall keep a true and correct account of all fees received by them.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103605. Health Statistics Special Fund**

(a) The moneys collected by the State Registrar shall be deposited with the Treasurer for credit to the Health Statistics Special Fund, except for the Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code and the fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, all of which shall be deposited in the General Fund.

(b) This section shall become operative on January 1, 2023.

**HISTORY:** Added Stats 2010 ch 529 § 8 (AB 52), effective September 29, 2010, operative January 1, 2018. Amended Stats 2011 ch 296 § 172 (AB 1023), effective January 1, 2012, operative January 1, 2018; Amended Stats 2017 ch 38 § 7 (AB 114), effective July 10, 2017, operative January 1, 2023.

**§ 103610. Payment by local registrar**

The money collected by the local registrar shall be paid by him or her into the county or city treasury.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**ARTICLE 2 FEE FOR CERTIFIED COPY OR SEARCH OF RECORDS**

## Section

103625. Fees for certified copies of birth, death, or marital records [Repealed effective January 1, 2027]
103625. Fees for certified copies of birth, death, or marital records (Second of two; Operative January 1, 2023)
103625. Fees for certified copies of birth, death, or marital records [Operative January 1, 2027]
103626. Contra Costa County authorized to increase in fees for certified copies of marriage, birth, fetal death, and death records
103627. Increased fees in Alameda County and City of Berkeley for certified copies of specified records to support governmental oversight and coordination of agencies dealing with domestic violence
103628. Increased fees in Solano County for governmental oversight and coordination of agencies dealing with domestic violence
103630. Retention of fee for insufficiency of information
103635. Retaining or refunding overpayment
103650. Searching records
103655. Free inspection for news purposes
103660. Exemption of "public entity"

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103625. Fees for certified copies of birth, death, or marital records [Repealed effective January 1, 2027]**

(a) A fee of twelve dollars (\$12) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b)(1) A fee of twelve dollars (\$12) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of eighteen dollars (\$18) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars (\$4) of any eighteen-dollar (\$18) fee is exempt from subdivision (e) and shall be paid either to a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code. Two dollars (\$2) of any eighteen-dollar (\$18) fee is exempt from subdivision (e) and shall be paid to the Umbilical Cord Blood Collection Program Fund in conformity with Section 1628.



(2) The board of supervisors of any county that has established a county children's trust fund may increase the fee for a certified copy of a birth certificate by up to three dollars (\$3) for deposit in the county children's trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars (\$3) of any six-dollar (\$6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall do the following:

(1) Transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(2) Retain 85 percent of the fee for each certified copy solely to support the issuing agency for all activities related to the issuance of certified copies of records pursuant to subdivisions (a) to (d), inclusive.

(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three dollars (\$3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by local public officials pursuant to subdivision (f) shall be distributed as follows:

(1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency's vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health statistics trust fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be deposited in accordance with Section 102247.

(h) Moneys in each local vital and health statistics trust fund shall be available to the local official charged with the collection of fees pursuant to subdivision (f) for the applicable jurisdiction for the purpose of defraying the administrative costs of collecting and reporting with respect to those fees and for other costs as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in existence on January 1, 2002, that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f) be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children and maternal health problems, and to analyze the health status of the general population.

(j) Each county shall annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous calendar year and on how the revenues were expended and for what purpose.

(k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to subdivision (f) shall transmit 45 percent of the fee for each certified copy to which subdivision (f) applies to the State Registrar by the 10th day of the month following the month in which the fee was received.

(l) The nine dollar (\$9) increase to the base fee authorized in subdivision (a) for a certified copy of a fetal death record or death record and subdivision (b) for a certified copy of a birth certificate shall be applied incrementally as follows:

- (1) A five dollar (\$5) increase applied as of January 1, 2012.
- (2) An additional two dollar (\$2) increase applied as of January 1, 2013.
- (3) An additional two dollar (\$2) increase applied as of January 1, 2014.

(m) In providing for the expiration of the surcharge on birth certificate fees on June 30, 1999, the Legislature intends that juvenile dependency mediation programs pursue ancillary funding sources after that date.

(n) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**HISTORY:** Added Stats 1957 ch 363 § 2, as H & S C § 10605. Amended Stats 1959 ch 1325 § 1, effective January 1, 1960; Stats 1968 ch 626 § 1; Stats 1977 ch 1012 § 6; Stats 1980 ch 1012 § 10; Stats 1982 ch 1399 § 1; Stats 1983 ch 877 § 1; Stats 1984 ch 893 § 3, effective September 6, 1984; Stats 1985 ch 217 § 6, ch 851 § 4; Stats 1992 ch 163 § 97 (AB 2641), operative January 1, 1994, ch 360 § 1 (SB 1420) (ch 360 prevails), effective July 24, 1992; Stats 1993 ch 219 § 216 (AB 1500). Repealed Stats 1995 ch 415 § 125 (SB 1360). Amended Stats 1995 ch 880 § 1 (SB 750) (ch 880 prevails); Amended and renumbered by Stats 1996 ch 405 § 1 (SB 1675) (ch 405 prevails), ch 1023 § 195 (SB 1497), effective September 29, 1996; Amended Stats 1998 ch 1062 § 1 (AB 2229); Stats 2001 ch 171 § 6 (AB 430), effective August 10, 2001; Stats 2002 ch 784 § 517 (SB 1316). Stats 2010 ch 529 § 9 (AB 52), effective September 29, 2010, repealed January 1, 2018; Stats 2011 ch 296 § 173 (AB 1023), effective January 1, 2012, repealed January 1, 2018, ch 402 § 5 (AB 1053) (ch 402 prevails), effective January 1, 2011, repealed January 1, 2018. Amended Stats 2017 ch 38 § 8 (AB 114), effective July 10, 2017, repealed January 1, 2023; Stats 2022 ch 604 § 5 (SB 883), effective January 1, 2023, repealed January 1, 2027.

#### **§ 103625. Fees for certified copies of birth, death, or marital records (Second of two; Operative January 1, 2023)**

(a) A fee of twelve dollars (\$12) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b)(1) A fee of twelve dollars (\$12) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of sixteen dollars (\$16) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars (\$4) of any sixteen-dollar (\$16) fee is exempt from subdivision (e) and shall be paid either to a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(2) The board of supervisors of any county that has established a county children's trust fund may increase the fee for a certified copy of a birth certificate by up to three dollars (\$3) for deposit in the county children's trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars (\$3) of any six-dollar (\$6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall do the following:

(1) Transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(2) Retain 85 percent of the fee for each certified copy solely to support the issuing agency for all activities related to the issuance of certified copies of records pursuant to subdivisions (a) to (d), inclusive.

(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three dollars (\$3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by local public officials pursuant to subdivision (f) shall be distributed as follows:

(1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency's vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health

statistics trust fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be deposited in accordance with Section 102247.

(h) Moneys in each local vital and health statistics trust fund shall be available to the local official charged with the collection of fees pursuant to subdivision (f) for the applicable jurisdiction for the purpose of defraying the administrative costs of collecting and reporting with respect to those fees and for other costs as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in existence on January 1, 2002, that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f) be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children and maternal health problems, and to analyze the health status of the general population.

(j) Each county shall annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous calendar year and on how the revenues were expended and for what purpose.

(k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to subdivision (f) shall transmit 45 percent of the fee for each certified copy to which subdivision (f) applies to the State Registrar by the 10th day of the month following the month in which the fee was received.

(l) In providing for the expiration of the surcharge on birth certificate fees on June 30, 1999, the Legislature intends that juvenile dependency mediation programs pursue ancillary funding sources after that date.

(m) This section shall become operative on January 1, 2018.

**HISTORY:** Added Stats 2010 ch 529 § 10 (AB 52), effective September 29, 2010, operative January 1, 2018. Amended Stats 2011 ch 296 § 174 (AB 1023), effective January 1, 2012, operative January 1, 2018, ch 402 § 6 (AB 1053) (ch 402 prevails), effective January 1, 2011, operative January 1, 2018; Amended Stats 2017 ch 38 § 9 (AB 114), effective July 10, 2017, operative January 1, 2023; Stats 2022 ch 604 § 6 (SB 883), effective January 1, 2023, operative January 1, 2027.

### **§ 103625. Fees for certified copies of birth, death, or marital records [Operative January 1, 2027]**

(a) A fee of twelve dollars (\$12) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b)(1) A fee of twelve dollars (\$12) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of sixteen dollars (\$16) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars (\$4) of any sixteen-dollar (\$16) fee is exempt from subdivision (e) and shall be paid either to a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(2) The board of supervisors of any county that has established a county children's trust fund may increase the fee for a certified copy of a birth certificate by up to three dollars (\$3) for deposit in the county children's trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars (\$3) of any six-dollar (\$6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall do the following:

(1) Transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(2) Retain 85 percent of the fee for each certified copy solely to support the issuing agency for all activities related to the issuance of certified copies of records pursuant to subdivisions (a) to (d), inclusive.

(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three dollars (\$3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by local public officials pursuant to subdivision (f) shall be distributed as follows:

(1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency's vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health statistics trust fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be deposited in accordance with Section 102247.

(h) Moneys in each local vital and health statistics trust fund shall be available to the local official charged with the collection of fees pursuant to subdivision (f) for the applicable jurisdiction for the purpose of defraying the administrative costs of collecting and reporting with respect to those fees and for other costs as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in existence on January 1, 2002, that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f) be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children and maternal health problems, and to analyze the health status of the general population.

(j) Each county shall annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous calendar year and on how the revenues were expended and for what purpose.

(k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to subdivision (f) shall transmit 45 percent of the fee for each certified copy to which subdivision (f) applies to the State Registrar by the 10th day of the month following the month in which the fee was received.

(l) In providing for the expiration of the surcharge on birth certificate fees on June 30, 1999, the Legislature intends that juvenile dependency mediation programs pursue ancillary funding sources after that date.

(m) This section shall become operative on January 1, 2027.

**HISTORY:** Added Stats 2010 ch 529 § 10 (AB 52), effective September 29, 2010, operative January 1, 2018. Amended Stats 2011 ch 296 § 174 (AB 1023), effective January 1, 2012, operative January 1, 2018, ch 402 § 6 (AB 1053) (ch 402 prevails), effective January 1, 2011, operative January 1, 2018; Amended Stats 2017 ch 38 § 9 (AB 114), effective July 10, 2017, operative January 1, 2023; Stats 2022 ch 604 § 6 (SB 883), effective January 1, 2023, operative January 1, 2027.

#### **§ 103626. Contra Costa County authorized to increase in fees for certified copies of marriage, birth, fetal death, and death records**

(a) The Contra Costa County Board of Supervisors, upon making findings and declarations supporting the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for certified copies of marriage certificates, birth certificates, fetal death records, and death records, up to a maximum increase of four dollars (\$4).

(b) Effective July 1 of each year, the Contra Costa County Board of Supervisors may authorize an increase in these fees by an amount equal to the increase in the Consumer Price Index for the San Francisco metropolitan area for the preceding calendar year, rounded to the nearest half-dollar. The fees shall be disposed of pursuant to the provisions of Section 18308 of the Welfare and Institutions Code.

(c) In addition to the fees prescribed by subdivisions (a) and (b) of this section, any applicant for a certified copy of a birth certificate, a fetal death record, or death record in Contra Costa County shall pay an additional fee to the local registrar, county recorder, or county clerk as established by the Contra Costa County Board of Supervisors.

**HISTORY:** Added Stats 2001 ch 90 § 3 (SB 425), repealed January 1, 2007. Amended Stats 2006 ch 635 § 2 (SB 968), effective January 1, 2007.



**§ 103627. Increased fees in Alameda County and City of Berkeley for certified copies of specified records to support governmental oversight and coordination of agencies dealing with domestic violence**

(a)(1) The Alameda County Board of Supervisors, upon making findings and declarations supporting the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for certified copies of marriage certificates, birth certificates, fetal death records, and death records, up to a maximum increase of two dollars (\$2).

(2) The City Council of the City of Berkeley, upon making findings and declarations supporting the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for certified copies of birth certificates, fetal death records, and death records, up to a maximum increase of two dollars (\$2).

(b) Effective July 1 of each year, the Alameda County Board of Supervisors and the City Council of the City of Berkeley may authorize an increase in these fees by an amount equal to the increase in the Consumer Price Index for the San Francisco metropolitan area for the preceding calendar year, rounded to the nearest half-dollar (\$0.50). The fees shall be disposed of pursuant to the provisions of Section 18309 of the Welfare and Institutions Code.

(c) In addition to the fees prescribed by subdivisions (a) and (b), any applicant for a certified copy of a birth certificate, a fetal death record, or death record in Alameda County or in the City of Berkeley shall pay an additional fee to the local registrar, county recorder, or county clerk, as applicable, as established by the Alameda County Board of Supervisors or the City Council of the City of Berkeley.

**HISTORY:** Added Stats 2004 ch 830 § 4 (AB 2010), repealed January 1, 2010. Amended Stats 2005 ch 545 § 1 (AB 1712); Stats 2009 ch 215 § 4 (AB 73), effective January 1, 2010.

**§ 103628. Increased fees in Solano County for governmental oversight and coordination of agencies dealing with domestic violence**

(a) The Solano County Board of Supervisors, upon making findings and declarations for the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for certified copies of marriage certificates, birth certificates, fetal death records, and death records, up to a maximum increase of two dollars (\$2).

(b) Effective July 1 of each year, the Solano County Board of Supervisors may authorize an increase in these fees by an amount equal to the increase in the Consumer Price Index for the San Francisco metropolitan area for the preceding calendar year, rounded to the nearest one-half dollar (\$0.50). The fees shall be allocated pursuant to Section 18309.5 of the Welfare and Institutions Code.

(c) In addition to the fees prescribed by subdivisions (a) and (b), any applicant for a certified copy of a birth certificate, a fetal death record, or death record in Solano County shall pay an additional fee to the local registrar, county recorder, or county clerk as established by the Solano County Board of Supervisors.

**HISTORY:** Added Stats 2004 ch 830 § 5 (AB 2010), repealed January 1, 2010. Amended Stats 2009 ch 356 § 3 (SB 635), effective January 1, 2010, repealed January 1, 2011; Stats 2010 ch 520 § 2 (SB 1222), effective January 1, 2011; Stats 2011 ch 120 § 2 (SB 154), effective January 1, 2012.

**§ 103630. Retention of fee for insufficiency of information**

If the information supplied by the applicant is not sufficient to enable the State Registrar to supply the certified copy of any record for which application is made and the applicant, after written request by the State Registrar, does not furnish the necessary information within 30 days of the date of the request, the State Registrar shall retain the fee.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103635. Retaining or refunding overpayment**

Overpayment of the required fee received in the office of the State Registrar shall be retained, except any overpayment shall be refunded upon written request of the applicant within one year or when overpayment is in excess of two dollars (\$2).

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).



**§ 103650. Searching records**

The fee for any search of the files and records performed by the custodian of the records for a specific record when no certified copy is made shall be paid in advance by the applicant. The fee shall be the same as the fee required in Section 103625.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103655. Free inspection for news purposes**

No fee shall be charged any publisher or editor of, or reporter employed by, a newspaper of general circulation or a news service to inspect, in the course and scope of his or her position or employment, any certificate of live birth, fetal death, or marriage, or any other certificate required by this part to be filed in the Office of the State Registrar or the office of any local registrar or county recorder, or any index of the certificates.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103660. Exemption of “public entity”**

No fee shall be charged by the State Registrar or local registrar of births and deaths for services rendered to any public entity, except for issuance of a permit for disposition of human remains or for making a copy of a record.

As used in this section, “public entity” includes the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**ARTICLE 3 OTHER FEES**

## Section

- 103675. Permit for disposition of human remains
- 103680. Additional fee for issuance of permit for disposition of human remains
- 103685. Additional fee for disposition permit issued outside of office hours
- 103690. Payment of fees for disposition permits
- 103692. Application fee for permit to dispose of human remains
- 103695. Fee for delayed birth registration or court order to establish record of birth, death, or marriage
- 103700. Fee for amendment or revision to record
- 103705. Fee for amendment of birth record to show deceased adopting parent
- 103710. Fee for establishment of amended birth record after adoption, legitimation, or percentage adjudication
- 103715. Fee for establishment of new record after acknowledgement of paternity
- 103720. Fee for establishment of amended record of birth after change of name
- 103725. Fee for establishment of new record
- 103730. Adoption fee; Waiver

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103675. Permit for disposition of human remains**

Except as otherwise provided in Section 103065, the fee for issuance of a permit for disposition of human remains is two dollars (\$2) payable to the local registrar of births and deaths by the applicant for the permit, when the permit is issued during regularly scheduled office hours of the local registrar of births and deaths.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103680. Additional fee for issuance of permit for disposition of human remains**

(a) An additional fee of three dollars (\$3) for the issuance of a permit for the disposition of human remains pursuant to Section 103675 shall be payable to the local registrar of births and deaths by the applicant for the permit. This amount shall be exempt from any adjustment made pursuant to Section 100430.

(b) Notwithstanding any other law, the local registrar of births and deaths shall pay into the State Penalty Fund, by the 10th of the month following the end of each calendar quarter one dollar (\$1) of the fee collected pursuant to subdivision (a) for the training of peace officer members of county coroners' offices. The remaining funds collected pursuant to subdivision (a) shall be paid into the county treasury to be expended for indigent burial.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2018 ch 36 § 14 (AB 1812), effective June 27, 2018.

**§ 103685. Additional fee for disposition permit issued outside of office hours**

An additional fee of three dollars (\$3) shall be paid for the issuance of a permit for disposition, when the

permit is required to be issued outside the regularly scheduled office hours of the local registrar of births and deaths.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103690. Payment of fees for disposition permits**

Notwithstanding any other provision of law, the local registrar of births and deaths shall pay to the State Registrar by the 10th of the month following the end of each calendar quarter one-half of the fees collected under authority of Section 103675.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103692. Application fee for permit to dispose of human remains**

(a)(1) Commencing January 1, 2003, in addition to the fees prescribed by Section 103065 and by Sections 103675 to 103685, inclusive, an applicant for a permit for the disposition of human remains shall pay a fee of six dollars (\$6) to the local registrar of births and deaths.

(2) The fee imposed by paragraph (1) shall remain in effect until January 1, 2005, and as of that date, shall be reduced to four dollars (\$4).

(3) The fee established by this subdivision shall be exempt from any adjustment made pursuant to Section 100430.

(b) Notwithstanding any other provision of law, the local registrar of births and deaths shall pay to the State Registrar, pursuant to Section 103690, the fees collected pursuant to subdivision (a).

(c) Funds collected pursuant to subdivision (a), upon appropriation by the Legislature, shall be used by the State Registrar to implement and maintain the electronic death registration system required by Section 102778.

**HISTORY:** Added Stats 2002 ch 857 § 2 (AB 2550).

#### **§ 103695. Fee for delayed birth registration or court order to establish record of birth, death, or marriage**

A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant at the time of application for a delayed birth registration under Chapter 4 (commencing with Section 102525) or a court order to establish a record of birth, death, or marriage pursuant to Chapter 12 (commencing with Section 103450). Upon acceptance of the application the State Registrar shall retain the fee.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103700. Fee for amendment or revision to record**

A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for an amendment or revision to a birth, death, or marriage record under provisions of Articles 1 (commencing with Section 103225), 4 (commencing with Section 103325), 5 (commencing with Section 103350) and 8 (commencing with Section 103446) of Chapter 11, except for those amendments that are filed within one year of the date of occurrence of the event.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2000 ch 780 § 3 (AB 2735).

#### **§ 103705. Fee for amendment of birth record to show deceased adopting parent**

A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for the preparation of an amended record that shall include a certified copy of the newly amended record under Section 102670.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

#### **§ 103710. Fee for establishment of amended birth record after adoption, legitimation, or percentage adjudication**

A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant or when applicable, by the county clerk for the establishment of an amended record of birth under Articles 1 (commencing with Section 102625), and 2 (commencing with Section 102725) of Chapter 5, except where the required fee has been paid or an exception to the fee is provided under Section 103730.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103715. Fee for establishment of new record after acknowledgement of paternity**

A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for the establishment of a new record of birth under Article 3 (commencing with Section 102750) of Chapter 5.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103720. Fee for establishment of amended record of birth after change of name**

A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for the establishment of an amended record of birth under Article 6 (commencing with Section 103400) of Chapter 11.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103725. Fee for establishment of new record**

(a) A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for establishment of a new record of birth or marriage license and certificate under Article 7 (commencing with Section 103425) of Chapter 11.

(b) This section shall become operative on January 1, 2023.

**HISTORY:** Added Stats 2021 ch 577 § 10 (AB 218), effective January 1, 2022, operative January 1, 2023.

**§ 103730. Adoption fee; Waiver**

A fee of twenty dollars (\$20) for each individual being adopted shall be paid to the clerk of the court at the time of filing the petition in an adoption proceeding, except for agency adoptions in which the adoption fee is waived and a statement from the agency to this effect is filed with the petition. The fee shall be transmitted to the State Treasury, as provided in Section 68085.1 of the Government Code, for deposit in the Health Statistics Special Fund for the services required by statute of the office of the State Registrar of Vital Statistics.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2005 ch 75 § 145 (AB 145), effective July 19, 2005, operative January 1, 2006.

**CHAPTER 16 COMPENSATION OF APPOINTED LOCAL REGISTRARS OF BIRTHS AND DEATHS****Section**

- 103750. Quarterly certification to county auditors
- 103755. Warrants; Nonpayment to salaried personnel
- 103760. Basis of compensation; Share of subregistrar
- 103765. Compensation in absence of registration

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103750. Quarterly certification to county auditors**

For local registrars serving under authority of Section 102280 the State Registrar shall quarterly certify to the auditors of the several counties the number of births and deaths properly registered, with the names of the local registrars and the amounts due each at the rates fixed by this part.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103755. Warrants; Nonpayment to salaried personnel**

All amounts shall be paid by the treasurer of the county in which the registration district is located, upon warrants drawn by the auditor; provided, that no fee shall be paid by the county to any local registrar who is also a city or county officer or employee and whose salary is by law the sole compensation for his or her services.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103760. Basis of compensation; Share of subregistrar**

Each local registrar entitled to compensation shall be paid the sum of fifty cents (\$0.50) for each birth certificate and each death certificate properly and completely made out and registered with him or her, and correctly recorded and promptly returned by him or her to the State Registrar and out of the fees he or she shall pay the subregistrar the sum of thirty cents (\$0.30) in each case where the certificate is registered with the subregistrar.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103765. Compensation in absence of registration**

If no births or no deaths were registered during any week the local registrar is entitled to be paid the sum of fifty cents (\$0.50) for each report to that effect, but only if the report is made promptly as required by this part.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**CHAPTER 17 PENALTIES**

## Article

1. Misdemeanors.
2. Felony.

**HISTORY:** Added Stats 1995 ch 415 § 4.

**ARTICLE 1 MISDEMEANORS**

## Section

103775. Failure to furnish information; False information
103780. Alteration or falsification of records
103785. Failure to fill out and register certificate, or to perform duty
103790. Local registrar's neglect of duty
103795. Prohibited use of information from birth certificate

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103775. Failure to furnish information; False information**

(a) Every person, except a parent informant for a certificate of live birth and as provided in subdivision (b), who is responsible for supplying information who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information affecting any certificate or record required by this part, is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who is responsible for supplying information and who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information with intent to defraud affecting a death certificate or record required by this part, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2002 ch 819 § 8 (SB 17); Stats 2018 ch 571 § 36 (SB 1480), effective January 1, 2019.

**§ 103780. Alteration or falsification of records**

(a) Every person, except as provided in subdivision (b), who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of birth, fetal death, or death, or marriage license, or any record established by this part is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of death, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2002 ch 819 § 9 (SB 17); Stats 2006 ch 816 § 51 (AB 1102), effective January 1, 2007, operative January 1, 2008; Stats 2018 ch 92 § 149 (SB 1289), effective January 1, 2019; Stats 2018 ch 571 § 37 (SB 1480), effective January 1, 2019 (ch 571 prevails).

**§ 103785. Failure to fill out and register certificate, or to perform duty**

Every person who is required to fill out a certificate of birth, fetal death, or death, or marriage license and register it with the local registrar, or deliver it, upon request, to any person charged with the duty of registering it, and who fails, neglects, or refuses to perform that duty in the manner required by this part is guilty of a misdemeanor.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360). Amended Stats 2006 ch 816 § 52 (AB 1102), effective January 1, 2007, operative January 1, 2008.

**§ 103790. Local registrar's neglect of duty**

Every local registrar, deputy registrar, or subregistrar, who fails, neglects, or refuses to perform his or her duty as required by this part and by the instructions and directions of the State Registrar thereunder, is guilty of a misdemeanor.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**§ 103795. Prohibited use of information from birth certificate**

Any person who uses any information from a certificate of live birth that is stamped with the notation authorized under subdivision (a) of Section 10056.5 is guilty of a misdemeanor.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).

**ARTICLE 2 FELONY**

Section

103800. Felony offense respecting false certificate or affidavit, in proceedings to establish record of birth; Recovery and disposition of civil penalty

**HISTORY:** Added Stats 1995 ch 415 § 4.

**§ 103800. Felony offense respecting false certificate or affidavit, in proceedings to establish record of birth; Recovery and disposition of civil penalty**

Any person who willfully makes or files or causes to be made or filed a false certificate or affidavit under Chapter 4 (commencing with Section 102525) is guilty of a felony. The subject is also liable to the State of California for a civil penalty in the amount of five thousand dollars (\$5,000). The civil penalty may be recovered in an action filed by the Attorney General in any court of competent jurisdiction. A penalty so recovered shall be paid into the State Treasury to the credit of the General Fund.

**HISTORY:** Added Stats 1995 ch 415 § 4 (SB 1360).





# GOVERNMENT CODE

## TITLE 3 GOVERNMENT OF COUNTIES

### DIVISION 2 OFFICERS

#### PART 3 OTHER OFFICERS

#### CHAPTER 10 CORONER

##### Article

1. Duties Generally.
2. Inquests.
- 2.5. Autopsy.
3. Vacancy.

#### ARTICLE 1 DUTIES GENERALLY

##### Section

27460. Interment of body of deceased
27461. Application to collect assets of deceased; When application to be granted; Notice and fees; Use of money
27462. Statement of property of deceased; Filing vouchers as to disposition of property; When burial expenses a county charge
27463. Coroner's register; Entries to be made
- 27463.5. Official file; Preservation of photographic copy in lieu of original
27464. Writing by suicide directing disposition of property or remains; Transcription and delivery or filing
27465. Delivery of money or property to the legal representatives of deceased
27466. Absence of demand for money or property; Delivery to treasurer; Affidavit
27467. Failure to deliver money and proceeds of property; Recovery by district attorney
27468. Sale of property found upon decedent's person; Disposition of proceeds
27469. Coroner to discharge sheriff's duties where sheriff party to action or proceeding
27470. Reimbursement for ambulance services
- 27470.5. Charge for autopsy on resident of another county
27471. Embalming expenses
27472. Expenses incurred in removing and keeping body
27473. Interpreters' and translators' fees and other compensation

#### § 27460. Interment of body of deceased

If an inquest is held by the coroner and no other person takes charge of the body of the deceased, he shall cause it to be interred decently.

**HISTORY:** Added Stats 1947 ch 424 § 1.

#### § 27461. Application to collect assets of deceased; When application to be granted; Notice and fees; Use of money

In order to inter decently the body of the deceased, the coroner may apply to a judge of the superior court of his county for an order permitting him to: (a) sell summarily any personal property belonging to the deceased, (b) withdraw any money that the deceased has on deposit with any bank, and (c) collect any indebtedness or claim that is owing or due the deceased.

If upon the application it appears to the court by competent evidence that the total value of the estate of the deceased is less than seventy-five dollars (\$75), the judge shall make an order granting the application, and there shall be no administration upon the estate of the deceased unless additional estate is found or discovered. No notice of the application need be given and no fee shall be charged by the clerk of the court or coroner for the filing of the application or for any duty or service connected therewith. Upon the sale of the personal property of the deceased or the collection of any money, claim, or indebtedness by the coroner, he shall use the money for expenses of the funeral of the deceased.

**HISTORY:** Added Stats 1947 ch 424 § 1.

#### § 27462. Statement of property of deceased; Filing vouchers as to disposition of property; When burial expenses a county charge

The coroner shall file with the clerk of the court a statement showing the property of the deceased that came into his hands, the amount received from the sale of any personal property, and the disposition of the

property of the deceased. He shall also file with the clerk vouchers showing what disposition was made of the property. If there is not sufficient property belonging to the estate of the deceased to pay the necessary expenses of the burial, the expenses are a legal charge against the county.

**HISTORY:** Added Stats 1947 ch 424 § 1.

#### **§ 27463. Coroner's register; Entries to be made**

The coroner shall keep an official register, labeled "Coroner's Register," with pages numbered, indexed and bound, in which he shall enter:

- (a) The name and any aliases of the deceased, when known, including such description as may be sufficient for identification and which may, in his discretion, include fingerprint records.
- (b) A narrative summary of the circumstances leading to and surrounding the death, together with names and addresses of any witnesses to such events.
- (c) The property taken from the person or premises of the deceased by the coroner or by any other law enforcement agency or officer.
- (d) The disposition of any property or moneys so taken.
- (e) The cause of death, when known, with reference or direction to the detailed medical reports upon which decision as to cause of death has been based.
- (f) Information as to disposition of the remains.
- (g) Persons notified of the death, together with a notation of any unsuccessful attempts at notification.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1959 ch 1760 § 1.

#### **§ 27463.5. Official file; Preservation of photographic copy in lieu of original**

In lieu of the "coroner's register," the coroner may keep an official file for each deceased person containing all of the information required by Section 27463. At any time after the completion of the coroner's investigation, and the closing of the particular case involved, the coroner may photograph or microphotograph the contents of the file in accordance with the provisions of Section 26205, and, when the photographs or microphotographs are placed in conveniently accessible files and provision is made for preserving, examining, and using the same, the original file may be destroyed.

**HISTORY:** Added Stats 1963 ch 80 § 1. Amended Stats 1973-74 ch 108 § 1; Stats 1975 ch 857 § 1.

#### **§ 27464. Writing by suicide directing disposition of property or remains; Transcription and delivery or filing**

Whenever the death of any person shall have been referred to the coroner for investigation, there shall be delivered to the coroner any note, letter or other document apparently written by the deceased which may tend to indicate an intention by the writer to take the writer's life, including directions for disposition of property or disposal of remains. A facsimile copy thereof shall be placed in the coroner's records, and, if an inquest be held, a true copy shall be read into the record and transcribed into the notes of the official stenographer. Upon completion of legal proceedings arising from such death, the original instrument shall be delivered by the coroner to the addressee or to the legal representative of the estate of the decedent; provided, however, that if the instrument purports to be testamentary in nature, it shall be filed with the clerk of the court as provided by law.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1959 ch 1760 § 2; Stats 2002 ch 784 § 185 (SB 1316).

#### **§ 27465. Delivery of money or property to the legal representatives of deceased**

Within 90 days after an inquest upon a dead body the coroner shall deliver to the legal representatives of the deceased any money or other property found upon the body.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1985 ch 77 § 1.

#### **§ 27466. Absence of demand for money or property; Delivery to treasurer; Affidavit**

If, within 90 days after the inquest, no legal representative makes a demand upon the coroner for the money or property found upon the body of the decedent, the coroner shall deliver to the treasurer any money, and the proceeds of the sale of any property found upon the body. At the same time, the coroner shall deliver an affidavit to the treasurer showing:

- (a) The amount of money belonging to the estate of the deceased person which has come into his possession since the coroner's last statement.
- (b) The disposition made of any property.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1985 ch 77 § 2.

**§ 27467. Failure to deliver money and proceeds of property; Recovery by district attorney**

If the coroner fails to deliver to the treasurer within 120 days after any inquest upon a dead body all money and proceeds from the sale of property found upon the body, unless claimed in the meantime by the public administrator or other legal representative of the decedent, the district attorney shall proceed against the coroner to recover the money or proceeds by civil action in the name of the county.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1985 ch 77 § 3.

**§ 27468. Sale of property found upon decedent's person; Disposition of proceeds**

If within 90 days after an inquest upon a dead body no legal representative of the decedent demands from the coroner the property found upon the person of the decedent, the coroner shall sell the property at public auction upon reasonable public notice, and immediately thereafter deliver the proceeds of the sale to the treasurer, who shall place them to the credit of the county.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1985 ch 77 § 4.

**§ 27469. Coroner to discharge sheriff's duties where sheriff party to action or proceeding**

In any action or proceeding in which the sheriff is a party, the coroner shall discharge the duties of sheriff.

**HISTORY:** Added Stats 1947 ch 424 § 1.

**§ 27470. Reimbursement for ambulance services**

If no private ambulance service other than that operated by a coroner is available, in addition to his salary and other fees allowed by law the coroner may be reimbursed for ambulance services rendered in conveying any person to the county hospital, where the person and the persons responsible for his support are unable to pay for the service.

**HISTORY:** Added Stats 1947 ch 424 § 1.

**§ 27470.5. Charge for autopsy on resident of another county**

Any county with a population under 250,000 that has elected to implement a trauma care system plan pursuant to Section 1797.257 of the Health and Safety Code may charge any actual costs incurred in the performance of an autopsy upon a person who was a resident of another county to the county of origin of that person. Nothing in this section shall be construed to restrict the jurisdiction of the county coroner or medical examiner in the county performing the autopsy over any inquiry or investigation into the cause of death of that person.

**HISTORY:** Added Stats 1992 ch 412 § 1 (SB 1836).

**§ 27471. Embalming expenses**

(a) Whenever the coroner takes custody of a dead body pursuant to law, he or she shall make a reasonable attempt to locate the family. After a reasonable attempt, the coroner may embalm the body or authorize the embalming by a mortician for purposes of preserving the remains for evidence, to prevent microbial and contagious disease hazards, or for investigative functions. If the embalming has been requested by the family or by a person authorized to take charge of the body prior to such embalming, and such family or person has agreed to accept the expense, the coroner may charge and collect up to one hundred thirty-five dollars (\$135). Any family, however, which has not been located within 24 hours of the custody by the coroner of the body, shall not be charged more than sixty-five dollars (\$65).

This subdivision shall only apply to counties that own and maintain a central morgue with a paid, full-time staff that performs embalming.

(b) Except as provided in subdivision (a), whenever the coroner takes custody of a dead body pursuant to law, he or she may embalm the body, and charge and collect up to one hundred thirty-five dollars (\$135) from the person entitled to its custody, except when the body is that of a child not more than 14 years of age or a person for whose burial there is available less than one hundred fifty dollars (\$150), in which cases the expense of embalming is a county charge. In any county where the coroner is paid a salary, the fee shall be paid into the county treasury, except that the board of supervisors may order that the fee be paid to the coroner if the coroner is a funeral director in the county.

(c) The board of supervisors shall by ordinance establish the fee to be charged pursuant to this section.

(d) The board of supervisors may increase the amount of the fees specified in subdivisions (a) and (b) pursuant to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1947 ch 280 § 2; Stats 1963 ch 1370 § 1; Stats 1974 ch 98 § 1; Stats 1977 ch 893 § 1; Stats 1978 ch 424 § 1; Stats 1984 ch 182 § 1.

### § 27472. Expenses incurred in removing and keeping body

If authorized by the county board of supervisors by ordinance, the coroner, whenever he or she takes custody of a dead body pursuant to law, may charge and collect from the person entitled to control the disposition of the remains, as specified in Section 7100 of the Health and Safety Code, the actual expense incurred by the coroner in removing the body from the place of death and keeping the body until its release to the person responsible for its interment. The charge shall not exceed one hundred dollars (\$100), shall not be imposed upon a person who claims and proves to be indigent, or in cases in which the body is that of a child not more than 14 years of age or in cases in which the coroner ascribes the death to the criminal act of another unless the coroner has reasonable grounds to believe that the deceased was involved in any criminal activity which contributed to his or her own death. The charge shall not include expenses of keeping the body during the time necessary for the coroner to perform his or her duties in connection with it. The charge, if not paid, may be considered a part of the funeral expenses and paid as a preferred charge against the estate of the decedent.

**HISTORY:** Added Stats 1983 ch 14 § 1. Amended Stats 1985 ch 61 § 1.

### § 27473. Interpreters' and translators' fees and other compensation

In coroners' cases, interpreters' and translators' fees or other compensation shall be paid from the county treasury upon warrants drawn by the county auditor, when so ordered by the coroner.

**HISTORY:** Added Stats 2010 ch 212 § 6 (AB 2767), effective January 1, 2011.

## ARTICLE 2 INQUESTS

### Section

- 27490. Coroner to hold inquests
- 27491. Deaths requiring coroner's inquiry; Signing death certificate
- 27491.1. Report of death under suspicious circumstances; Contents
- 27491.2. Examination of body at place of death; Removal or release; Keeping body in position or place of death for purposes of inquiry
- 27491.25. Testing of blood and urine for alcoholic, barbituric acid, or amphetamine derivative content; Permanent report; Exemptions
- 27491.3. Authority of coroner to take charge of personal effects of deceased; Locking and sealing premises; Criminal investigations; Search for anatomical donor card
- 27491.4. Authority to take possession of body in sudden infant death syndrome; Exhumation; Medical findings; Retention of tissues; Right to attend coroner's autopsy; Effect of Uniform Anatomical Gift Act upon performance of autopsy
- 27491.41. Autopsy where infant dies suddenly; Sudden infant death syndrome autopsy protocol
- 27491.42. Notice provided by coroner of sudden unexplained death of child; Civil liabilities
- 27491.43. Certificates of religious belief; Procedure when decedent has executed certificate
- 27491.44. Actions which may be taken by coroner
- 27491.45. Retention of tissues removed at autopsy; Removal of parts for transplant, or therapeutic, or scientific purposes
- 27491.46. Retention and transmission of pituitary glands to university
- 27491.47. Conditions for removal and release of corneal eye tissue from body in coroner's custody; Liability for removal
- 27491.5. Certificate of death; Cause of death; Issuance of certificate without holding inquest or autopsy; Effect of lack of evidence
- 27491.55. Delegation of jurisdiction to county or federal government; Conditions
- 27491.6. Inquest; Discretion of coroner; Requests for inquest; Jury; Public inquest
- 27491.7. Inquest conducted by coroner, deputy or hearing officer
- 27491.8. Confidential communications of deceased persons
- 27492. Jurors; Summoning; Number; Appearance
- 27493. Qualifications and exemptions of jurors
- 27497. View of body; Retirement for deliberation
- 27498. Subpoenas and subpoenas duces tecum
- 27499. Persons to be summoned and examined; Surgeon, physician, or chemist
- 27499.1. Subpoena of witnesses where names furnished to coroner
- 27500. Witness failing to attend guilty of misdemeanor
- 27501. Adjournment of inquest
- 27502. Reduction of testimony to writing; Transcription; Certified transcription to constitute deposition; Compensation of clerk or stenographer
- 27502.2. Verdict or decision inadmissible in civil or criminal proceeding
- 27503. Filing testimony
- 27504. Verdict; Certification; Form
- 27504.1. Findings that deceased died at the hands of another; Notification of district attorney; Sufficiency of information for death certificates
- 27511. Only one inquest upon body
- 27512. Error in identity of body; Calling another inquest; Entry of memorandum of error

### § 27490. Coroner to hold inquests

The coroner shall hold inquests pursuant to this article.

**HISTORY:** Added Stats 1947 ch 424 § 1.



**§ 27491. Deaths requiring coroner's inquiry; Signing death certificate**

It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state hospitals serving the mentally disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of the report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

**HISTORY:** Added Stats 1961 ch 2091 § 2. Amended Stats 1973–74 ch 440 § 1; Stats 1974 ch 1212 § 1, operative September 23, 1974, ch 1259 § 4; Stats 1977 ch 498 § 1; Stats 1978 ch 69 § 2; Stats 1985 ch 304 § 2; Stats 2008 ch 45 § 1 (SB 1196), effective January 1, 2009; Stats 2012 ch 440 § 32 (AB 1488), effective September 22, 2012; Stats 2015 ch 303 § 223 (AB 731), effective January 1, 2016; Stats 2022 ch 629 § 2 (AB 2223), effective January 1, 2023.

**§ 27491.1. Report of death under suspicious circumstances; Contents**

In all cases in which a person has died under circumstances that afford a reasonable ground to suspect that the person's death has been occasioned by the act of another by criminal means, the coroner, upon determining that those reasonable grounds exist, shall immediately notify the law enforcement agency having jurisdiction over the criminal investigation. Notification shall be made by the most direct communication available. The report shall state the name of the deceased person, if known, the location of the remains, and other information received by the coroner relating to the death, including any medical information of the decedent that is directly related to the death. The report shall not include any information contained in the decedent's medical records regarding any other person unless that information is relevant and directly related to the decedent's death.

**HISTORY:** Added Stats 1959 ch 1537 § 1. Amended Stats 1985 ch 304 § 3; Stats 2000 ch 1068 § 2 (AB 1836).

**§ 27491.2. Examination of body at place of death; Removal or release; Keeping body in position or place of death for purposes of inquiry**

(a) The coroner or the coroner's appointed deputy, on being informed of a death and finding it to fall into the classification of deaths requiring his or her inquiry, may immediately proceed to where the body lies, examine the body, make identification, make inquiry into the circumstances, manner, and means of death, and, as circumstances warrant, either order its removal for further investigation or disposition or release the body to the next of kin.

(b) For purposes of inquiry, the body of one who is known to be dead from any of the causes or under any of the circumstances described in Section 27491 shall not be disturbed or moved from the position or place

of death without permission of the coroner or the coroner's appointed deputy. Any violation of this subdivision is a misdemeanor.

**HISTORY:** Added Stats 1961 ch 2091 § 3. Amended Stats 1985 ch 304 § 4.

**§ 27491.25. Testing of blood and urine for alcoholic, barbituric acid, or amphetamine derivative content; Permanent report; Exemptions**

(a) The coroner or medical examiner, or their appointed deputy, on being notified of a death occurring while the deceased was driving or riding in a motor vehicle, or as a result of the deceased being struck by a motor vehicle, shall take blood and other biological samples, when appropriate, from the body of the deceased before it has been prepared for burial and make appropriate related chemical tests to determine the alcoholic contents, if any, of the body. The coroner or medical examiner, or their appointed deputy, on being notified of a death occurring while the deceased was driving a motor vehicle, shall perform drug screening and confirmatory tests for drugs, as referenced in Section 312 of the Vehicle Code, on the driver.

(b) The detailed medical findings, resulting from those examinations that are conducted, shall either be reduced to writing or permanently preserved on recording discs or other similar recording media and shall include all positive and negative findings pertinent to the presence or absence of any alcoholic or other substance content. Blood alcohol content and blood drug concentrations shall be provided when available.

(c) This section does not apply to the testing of a deceased person under 15 years of age unless the surrounding circumstances indicate the possibility of alcohol or drug consumption, nor shall it apply when the death has occurred more than 48 hours after the accident.

(d) For purposes of this section, hospital antemortem samples, if available, shall be used in place of post-mortem samples if the decedent was hospitalized prior to death.

**HISTORY:** Added Stats 1970 ch 1355 § 1. Amended Stats 1974 ch 204 § 1; Stats 1993 ch 389 § 1 (AB 164); Stats 2022 ch 223 § 1 (SB 925), effective January 1, 2023.

**§ 27491.3. Authority of coroner to take charge of personal effects of deceased; Locking and sealing premises; Criminal investigations; Search for anatomical donor card**

(a) In any death into which the coroner is to inquire, the coroner may take charge of any and all personal effects, valuables, and property of the deceased at the scene of death or related to the inquiry and hold or safeguard them until lawful disposition thereof can be made. The coroner may lock the premises and apply a seal to the door or doors prohibiting entrance to the premises, pending arrival of a legally authorized representative of the deceased. However, this shall not be done in such a manner as to interfere with the investigation being conducted by other law enforcement agencies. Any costs arising from the premises being locked or sealed while occupied by property of the deceased may be a proper and legal charge against the estate of the deceased. Unless expressly permitted by law, any person who enters any premises or tampers with or removes any lock or seal in violation of this section is guilty of a misdemeanor.

(b) Any property or evidence related to the investigation or prosecution of any known or suspected criminal death may, with knowledge of the coroner, be delivered to a law enforcement agency or district attorney, receipt for which shall be acknowledged.

(c) Except as otherwise provided in subdivision (d), any person who searches for or removes any papers, moneys, valuable property or weapons constituting the estate of the deceased from the person of the deceased or from the premises, prior to arrival of the coroner or without the permission of the coroner, is guilty of a misdemeanor. At the scene of any death, when it is immediately apparent or when it has not been previously recognized and the coroner's examination reveals that police investigation or criminal prosecution may ensue, the coroner shall not further disturb the body or any related evidence until the law enforcement agency has had reasonable opportunity to respond to the scene, if their purposes so require and they so request. Custody and control of the body shall remain with the coroner at all times. Reasonable time at the scene shall be allowed by the coroner for criminal investigation by other law enforcement agencies, with the time and location of removal of the remains to a convenient place to be determined at the discretion of the coroner.

(d) A peace officer may search the person or property on or about the person of the deceased, whose death is due to a traffic accident, for a driver's license or identification card to determine if an anatomical donor card is attached. If a peace officer locates such an anatomical donor card which indicates that the deceased is an anatomical donor, the peace officer shall immediately furnish such information to the coroner having jurisdiction.

"Peace officer," as used in this subdivision, means only those persons designated in Sections 830.1 and 830.2 of the Penal Code.

**HISTORY:** Added Stats 1961 ch 2091 § 4. Amended Stats 1978 ch 1201 § 1; Stats 1985 ch 304 § 5.

**§ 27491.4. Authority to take possession of body in sudden infant death syndrome; Exhumation; Medical findings; Retention of tissues; Right to attend coroner's autopsy; Effect of Uniform Anatomical Gift Act upon performance of autopsy**

(a) For purposes of inquiry the coroner shall, within 24 hours or as soon as feasible thereafter, where the suspected cause of death is sudden infant death syndrome and, in all other cases, the coroner may, in his or her discretion, take possession of the body, which shall include the authority to exhume the body, order it removed to a convenient place, and make or cause to be made a postmortem examination, or cause to be made an autopsy thereon, and make or cause to be made an analysis of the stomach, stomach contents, blood, organs, fluids, or tissues of the body. The detailed medical findings resulting from an inspection of the body or autopsy by an examining licensed physician and surgeon shall be either reduced to writing or permanently preserved on recording discs or other similar recording media, shall include all positive and negative findings pertinent to establishing the cause of death in accordance with medicolegal practice and this, along with the written opinions and conclusions of the examining licensed physician and surgeon, shall be included in the coroner's record of the death. The coroner shall have the right to retain only those tissues of the body removed at the time of the autopsy as may, in his or her opinion, be necessary or advisable to the inquiry into the case, or for the verification of his or her findings. Only individuals who are directly involved in the investigation of the death of the decedent may be present during the performance of the autopsy.

(b) In any case in which the coroner knows, or has reason to believe, that the deceased has made valid provision for the disposition of his or her body or a part or parts thereof for medical or scientific purposes in accordance with Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code, the coroner shall neither perform nor authorize any other person to perform an autopsy on the body unless the coroner has contacted or attempted to contact the physician last in attendance to the deceased. If the physician cannot be contacted, the coroner shall then notify or attempt to notify one of the following of the need for an autopsy to determine the cause of death: (1) the surviving spouse; (2) a surviving child or parent; (3) a surviving brother or sister; (4) any other kin or person who has acquired the right to control the disposition of the remains. Following a period of 24 hours after attempting to contact the physician last in attendance and notifying or attempting to notify one of the responsible parties listed above, the coroner may authorize the performance of an autopsy, as otherwise authorized or required by law.

(c) Nothing in this section shall be deemed to prohibit the discretion of the coroner to cause to be conducted an autopsy upon any victim of sudden, unexpected, or unexplained death or any death known or suspected of resulting from an accident, suicide, or apparent criminal means, or other death, as described in Section 27491.

**HISTORY:** Added Stats 1961 ch 2091 § 5. Amended Stats 1974 ch 453 § 5; Stats 1979 ch 766 § 1; Stats 1998 ch 457 § 1 (AB 1225); Stats 2016 ch 787 § 1 (SB 1189), effective January 1, 2017.

**§ 27491.41. Autopsy where infant dies suddenly; Sudden infant death syndrome autopsy protocol**

(a) For purposes of this section, "sudden infant death syndrome" means the sudden death of any infant that is unexpected by the history of the infant and where a thorough postmortem examination fails to demonstrate an adequate cause of death.

(b) The Legislature finds and declares that sudden infant death syndrome, also referred to as SIDS, is the leading cause of death for children under age one, striking one out of every 500 children. The Legislature finds and declares that sudden infant death syndrome is a serious problem within the State of California, and that the public interest is served by research and study of sudden infant death syndrome and its potential causes and indications.

(c)(1) To facilitate these purposes, the coroner shall, within 24 hours or as soon thereafter as feasible, cause an autopsy to be performed in any case where an infant has died suddenly and unexpectedly.

(2) However, if the attending licensed physician and surgeon desires to certify that the cause of death is sudden infant death syndrome, an autopsy may be performed at the discretion of the coroner. If the coroner causes an autopsy to be performed pursuant to this section, he or she shall also certify the cause of death.

(d) The autopsy shall be conducted pursuant to a standardized protocol developed by the State Department of Public Health. The protocol is exempt from the procedural requirements pertaining to the adoption of administrative rules and regulations pursuant to Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The protocol shall be followed by all coroners throughout the state when conducting an evaluation as part of an autopsy required by this section. The coroner shall state on the certificate of death that sudden

infant death syndrome was the cause of death when the coroner's findings are consistent with the definition of sudden infant death syndrome specified in the standardized autopsy protocol. The protocol may include requirements and standards for scene investigations, requirements for specific data, criteria for ascertaining cause of death based on the autopsy, and criteria for any specific tissue sampling, and any other requirements. The protocol may also require that specific tissue samples shall be provided to a central tissue repository designated by the State Department of Public Health.

(f) The State Department of Public Health shall establish procedures and protocols for access by researchers to any tissues, or other materials or data authorized by this section. Research may be conducted by any individual with a valid scientific interest and prior approval from the State Committee for the Protection of Human Subjects. The tissue samples, the materials, and all data shall be subject to the confidentiality requirements of Section 103850 of the Health and Safety Code.

(g) The coroner may take tissue samples for research purposes from infants who have died suddenly and unexpectedly without consent of the responsible adult if the tissue removal is not likely to result in any visible disfigurement.

(h) A coroner or licensed physician and surgeon shall not be liable for damages in a civil action for any act or omission done in compliance with this section.

(i) Consent of any person is not required before undertaking the autopsy required by this section.

**HISTORY:** Added Stats 1989 ch 955 § 1. Amended Stats 1st Ex Sess 1991–92 ch 21 § 42 (ABX1 66), effective March 1, 1993; Stats 1996 ch 1023 § 96 (SB 1497), effective September 29, 1996; Stats 1998 ch 457 § 2 (AB 1225); Stats 2000 ch 1060 § 39 (AB 1822); Stats 2016 ch 787 § 2 (SB 1189), effective January 1, 2017.

#### **§ 27491.42. Notice provided by coroner of sudden unexplained death of child; Civil liabilities**

(a) For purposes of this section, “sudden unexplained death in childhood” means the sudden death of a child one year of age or older but under 18 years of age that is unexplained by the history of the child and where a thorough postmortem examination fails to demonstrate an adequate cause of death.

(b) The coroner shall notify the parent or responsible adult of a child described in subdivision (a) about the importance of taking tissue samples.

(c) A coroner shall not be liable for damages in a civil action for any act or omission in compliance with this section.

**HISTORY:** Added Stats 2019 ch 614 § 1 (AB 620), effective January 1, 2020.

#### **§ 27491.43. Certificates of religious belief; Procedure when decedent has executed certificate**

(a)(1) Notwithstanding any other law, except as otherwise provided in this section, in any case in which the coroner, before the beginning of an autopsy, dissection, or removal of corneal tissue, pituitary glands, or any other organ, tissue, or fluid, has received a certificate of religious belief, executed by the decedent as provided in subdivision (b), that the procedure would be contrary to his or her religious belief, the coroner shall neither perform, nor order the performance of, that procedure on the body of the decedent.

(2) If, before beginning the procedure, the coroner is informed by a relative or a friend of the decedent that the decedent had executed a certificate of religious belief, the coroner shall not order an autopsy to be performed, except as otherwise provided in this section, for 48 hours. If the certificate is produced within 48 hours, the case shall be governed by this section. If the certificate is not produced within that time, the case shall be governed by the other provisions of this article.

(b) Any person, 18 years of age or older, may execute a certificate of religious belief which shall state in clear and unambiguous language that any postmortem anatomical dissection or that specified procedures would violate the religious convictions of the person. The certificate shall be signed and dated by the person in the presence of at least two witnesses. Each witness shall also sign the certificate and shall print on the certificate his or her name and residence address.

(c) Notwithstanding the existence of a certificate, the coroner may at any time cause an autopsy to be performed or any other procedure if he or she has a reasonable suspicion that the death was caused by the criminal act of another or by a contagious disease constituting a public health hazard.

(d)(1) If a certificate is produced, and if subdivision (c) does not apply, the coroner may petition the superior court, without fee, for an order authorizing an autopsy or other procedure or for an order setting aside the certificate as invalid. Notice of the proceeding shall be given to the person who produced the certificate. The proceeding shall have preference over all other cases.

(2) The court shall set aside the certificate if it finds that the certificate was not properly executed or that it does not clearly state the decedent's religious objection to the proposed procedure.

(3) The court may order an autopsy or other procedure despite a valid certificate if it finds that the cause of death is not evident, and that the interest of the public in determining the cause of death outweighs its interest in permitting the decedent and like persons fully to exercise their religious convictions.



(4) Any procedure performed pursuant to paragraph (3) shall be the least intrusive procedure consistent with the order of the court.

(5) If the petition is denied, and no stay is granted, the body of the deceased shall immediately be released to the person authorized to control its disposition.

(e) In any case in which the circumstances, manner, or cause of death is not determined because of the provisions of this section, the coroner may state on the certificate of death that an autopsy was not conducted because of the provisions of this section.

(f) A coroner shall not be liable for damages in a civil action for any act or omission taken in compliance with the provisions of this section.

**HISTORY:** Added Stats 1984 ch 1731 § 1. Amended Stats 2016 ch 787 § 3 (SB 1189), effective January 1, 2017.

#### **§ 27491.44. Actions which may be taken by coroner**

Notwithstanding any other provision of law, the coroner is authorized to do all of the following:

(a) Assist the people of this state, as appropriate, in the implementation of the Uniform Anatomical Gift Act contained in Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code, and in the otherwise lawful utilization of medically proven organ and tissue transplant procedures.

(b) Cooperate in the authorized removal and timely disposition of human organs and tissue from the bodies of deceased persons, including victims of homicide, in accordance with law and accepted medical practice.

(c) Assist medical and health service agencies in identifying donors of human organs and tissues, for purposes of providing life-enhancing benefits of transplant surgery to recipients under duly sanctioned medical conditions.

(d) Ask the deceased person's next of kin, at the time of notification of death, whether the deceased was a donor or if the family was a donor family. If not, the coroner is authorized to inform them of their option to donate viable organs and tissues.

(e) Enter into agreements with one or more procurement organizations to coordinate organ recovery procedures within that coroner's jurisdiction or in cooperation with other coroners throughout the state.

(f) Contract with or receive assistance of any kind from any public or private entity for the purpose of providing education and training to his or her personnel in pathology or any other area of the healing arts and sciences that will assist in timely determination of the causes of death.

**HISTORY:** Added Stats 1984 ch 1051 § 1. Amended Stats 1996 ch 827 § 2 (AB 3145).

#### **§ 27491.45. Retention of tissues removed at autopsy; Removal of parts for transplant, or therapeutic, or scientific purposes**

(a)(1) The coroner shall have the right to retain parts of the body, as defined in subdivision (g) of Section 7150.1 of the Health and Safety Code, removed at the time of autopsy or acquired during a coroner's investigation as may, in the opinion of the coroner, be necessary or advisable for scientific investigation and training. The coroner may employ or use outside laboratories, hospitals, or research institutions in the conduct of the coroner's scientific investigation or training.

(2) Parts of the body retained pursuant to paragraph (1) may be released by the coroner to hospitals, medical educational research institutions, and law enforcement agencies for noncoroner training, educational, and research purposes, either upon consent of the decedent or other person, as specified in Section 7151 of the Health and Safety Code, or after a reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of the Health and Safety Code of their option to consent or object to the release, and the appropriate person consents or that effort has been unsuccessful. A reasonable effort shall be deemed to have been made when a search for the persons has been underway for at least 12 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed in subdivision (a) of Section 7151 of the Health and Safety Code.

(b) The coroner may, in his or her discretion, allow removal of parts of the body by a licensed physician and surgeon or trained transplant technician for transplant, or therapeutic, or scientific purposes pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code, only if the following conditions are met:

(1) The provision of the part will not unnecessarily mutilate the body or interfere with the autopsy.



(2) The decedent or other person, as specified in Section 7151 of the Health and Safety Code, has consented to the provision of the part, as prescribed by Section 7154 of the Health and Safety Code, or after a reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of the Health and Safety Code of their option to consent or object to the release, and the appropriate person consents, or that effort has been unsuccessful. A reasonable effort shall be deemed to have been made when a search for the persons has been underway for at least 12 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed in subdivision (a) of Section 7151 of the Health and Safety Code. In obtaining this gift, the coroner shall notify the donor of the specific part or parts requested and shall obtain the donor's informed consent, as provided in Section 7150.5 or 7151 of the Health and Safety Code.

(c) Nothing in this section shall be construed as limiting any right provided for in Section 7152 of the Health and Safety Code.

(d) For purposes of this section, "trained transplant technician" means a person who has completed training in tissue removal for transplant or therapeutic, or scientific purposes, which the coroner determines to be adequate for the purposes.

**HISTORY:** Added Stats 1965 ch 879 § 1. Amended Stats 1972 ch 1103 § 1; Stats 1973–74 ch 483 § 1; Stats 1978 ch 1086 § 1.5; Stats 1979 ch 560 § 1; Stats 2000 ch 830 § 1 (AB 2397).

#### **§ 27491.46. Retention and transmission of pituitary glands to university**

(a) The coroner shall have the right to retain pituitary glands solely for transmission to a university, for use in research or the advancement of medical science, in those cases in which the coroner has required an autopsy to be performed pursuant to this chapter, and during a 48-hour period following such autopsy the body has not been claimed and the coroner has not been informed of any relatives of the decedent.

(b) In the course of any autopsy, the coroner may cause to be removed the pituitary gland from the body for transmittal to any public agency for use in manufacturing a hormone necessary for the physical growth of persons who are, or may become, hypopituitary dwarfs, if the coroner has no knowledge of objection to the removal and release of the pituitary gland having been made by the decedent or any other person specified in Section 7151.5 of the Health and Safety Code. Neither the coroner nor the medical examiner authorizing the removal of the pituitary gland, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order, or direction of the coroner or medical examiner in the removal of the pituitary gland pursuant to this section, shall incur civil liability for the removal of the pituitary gland in an action brought by any person who did not object prior to the removal of the pituitary gland, nor be subject to criminal prosecution for removal of the pituitary gland pursuant to the authority of this section.

Nothing in this subdivision shall supersede the terms of any gift made pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code.

**HISTORY:** Added Stats 1973–74 ch 357 § 1. Amended Stats 1979 ch 673 § 1; Stats 1984 ch 1737 § 2; Stats 2016 ch 787 § 4 (SB 1189), effective January 1, 2017.

#### **§ 27491.47. Conditions for removal and release of corneal eye tissue from body in coroner's custody; Liability for removal**

(a) Notwithstanding any other law, the coroner may, in the course of an autopsy, authorize the removal and release of corneal eye tissue from a body within the coroner's custody, if all of the following conditions are met:

(1) The autopsy has otherwise been authorized.

(2) The coroner has no knowledge of objection to the removal and release of corneal tissue having been made by the decedent or any other person specified in Section 7151 of the Health and Safety Code and has obtained any one of the following:

(A) A dated and signed written consent by the donor or any other person specified in Section 7151 of the Health and Safety Code on a form that clearly indicates the general intended use of the tissue and contains the signature of at least one witness.

(B) Proof of the existence of a recorded telephonic consent by the donor or any other person specified in Section 7151 of the Health and Safety Code in the form of an audio recording of the conversation or a transcript of the recorded conversation, which indicates the general intended use of the tissue.

(C) A document recording a verbal telephonic consent by the donor or any other person specified in Section 7151 of the Health and Safety Code, witnessed and signed by no fewer than two members of the

requesting entity, hospital, eye bank, or procurement organization, memorializing the consenting person's knowledge of and consent to the general intended use of the gift.

The form of consent obtained under subparagraph (A), (B), or (C) shall be kept on file by the requesting entity and the official agency for a minimum of three years.

(3) The removal of the tissue will not unnecessarily mutilate the body, be accomplished by enucleation, nor interfere with the autopsy.

(4) The tissue will be removed by a licensed physician and surgeon or a trained transplant technician.

(5) The tissue will be released to a public or nonprofit facility for transplant, therapeutic, or scientific purposes.

(b) Neither the coroner nor medical examiner authorizing the removal of the corneal tissue, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order, or direction of the coroner or medical examiner in the removal of corneal tissue pursuant to this section, shall incur civil liability for the removal in an action brought by any person who did not object prior to the removal of the corneal tissue, nor be subject to criminal prosecution for the removal of the corneal tissue pursuant to this section.

(c) This section shall not be construed to interfere with the ability of a person to make an anatomical gift pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

**HISTORY:** Added Stats 1983 ch 11 § 1. Amended Stats 1998 ch 457 § 3 (AB 1225), ch 887 § 1 (SB 1403); Stats 2009 ch 88 § 49 (AB 176), effective January 1, 2010; Stats 2016 ch 787 § 5 (SB 1189), effective January 1, 2017.

#### **§ 27491.5. Certificate of death; Cause of death; Issuance of certificate without holding inquest or autopsy; Effect of lack of evidence**

The cause of death appearing on a certificate of death signed by the coroner shall be in conformity with facts ascertained from inquiry, autopsy and other scientific findings. In case of death without medical attendance and without violence, casualty, criminal or undue means, the coroner may, without holding an inquest or autopsy, make the certificate of death from statements of relatives, persons last in attendance, or persons present at the time of death, after due medical consultation and opinion has been given by one qualified and licensed to practice medicine and so recorded in the records of the death, providing such information affords clear grounds to establish the correct medical cause of death within accepted medical practice and within the requirements for accuracy prescribed by the Division of Vital Statistics of the State Department of Health Services. The coroner shall not finally exclude crime, suicide, or accident as a cause of death because of lack of evidence.

**HISTORY:** Added Stats 1961 ch 2091 § 6. Amended Stats 1979 ch 373 § 151.

#### **§ 27491.55. Delegation of jurisdiction to county or federal government; Conditions**

In any case where a coroner is required to inquire into a death pursuant to Section 27491, the coroner may delegate his or her jurisdiction over the death to an agency of another county or the federal government when all of the following conditions have been met:

(a) The other agency has either requested the delegation of jurisdiction, or has agreed to take jurisdiction at the request of the coroner.

(b) The other agency has the authority to perform the functions being delegated.

(c) When both the coroner and the other agency have a jurisdictional interest or involvement in the death.

**HISTORY:** Added Stats 1988 ch 1139 § 1.

#### **§ 27491.6. Inquest; Discretion of coroner; Requests for inquest; Jury; Public inquest**

The coroner may also, in his discretion, if the circumstances warrant, hold an inquest, and he shall hold an inquest if requested to do so by the Attorney General, the district attorney, sheriff, city prosecutor, city attorney, or a chief of police of a city in the county in which such coroner has jurisdiction. Such inquest shall be held with or without a jury, at the coroner's discretion and shall be open to the public.

**HISTORY:** Added Stats 1961 ch 2091 § 7. Amended Stats 1969 ch 1220 § 1.

#### **§ 27491.7. Inquest conducted by coroner, deputy or hearing officer**

The coroner, his authorized deputy, or a hearing officer shall conduct the inquest.

**HISTORY:** Added Stats 1969 ch 1220 § 2.

**§ 27491.8. Confidential communications of deceased persons**

(a) When the coroner seeks a confidential communication of a deceased person that is privileged under Article 6 (commencing with Section 990) or Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, by means of a subpoena or subpoena duces tecum, for the purpose of inquiry into, and determination of, the circumstances, manner, and cause of death as set forth in Section 27491, or for the sole purpose of being introduced as evidence at a coroner's inquest proceeding, the coroner shall provide notice to the decedent's personal representative personally or at his or her last known address, not less than 15 days prior to the date the records are to be delivered to the presiding judge of the superior court. The notice shall inform the personal representative that he or she may provide to the court a written objection to the disclosure or to any part thereof, on or before the date for delivery thereof to the court. The custodian shall deliver the records to the presiding judge of the superior court in a confidential manner. The presiding judge shall examine the records in camera. If there is good cause, the presiding judge shall direct the custodian to disclose to the coroner those portions of the records which the judge determines are relevant to the coroner's inquiry or inquest.

(b) A communication made available to the coroner pursuant to this section is confidential, except insofar as it is introduced into evidence at a coroner's inquest proceeding, and shall not be distributed or made available to any other person, agency, firm, or corporation.

(c) This communication shall not be admissible as former testimony pursuant to Article 9 (commencing with Section 1290) of Chapter 2 of Division 10 of the Evidence Code.

(d) After the investigation or inquest has terminated, the court shall order the records thereof to be sealed as necessary to protect the confidentiality of the decedent's medical or mental health information.

(e) This section shall become operative on January 1, 2003.

**HISTORY:** Added Stats 2000 ch 1068 § 4 (AB 1836), operative January 1, 2003.

**§ 27492. Jurors; Summoning; Number; Appearance**

The coroner shall summon, or cause to be summoned by any sheriff or policeman, not less than nine nor more than 15 persons, qualified by law to serve as jurors, to appear before him forthwith, either at the place where the body of the deceased is or at some other convenient place within the county designated by him, or at the request of the district attorney, to inquire into the cause of the death.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1996 ch 872 § 57 (AB 3472).

**§ 27493. Qualifications and exemptions of jurors**

No person summoned is exempt from jury duty except at the discretion of the coroner. No person shall be summoned as juror who is related to the decedent or is charged with or suspected of the killing, nor shall anyone be summoned who is known to be prejudiced for or against him. No person selected or summoned to appear as a juror is subject to be challenged by any party.

**HISTORY:** Added Stats 1947 ch 424 § 1.

**§ 27497. View of body; Retirement for deliberation**

After the jury has been sworn and charged by the coroner it may, if deemed necessary and so ordered by him, go with him to view and examine the body of the deceased person. On order of the coroner the jury shall retire to any convenient place specified by him to hear the testimony of witnesses and deliberate upon its verdict.

**HISTORY:** Added Stats 1947 ch 424 § 1.

**§ 27498. Subpoenas and subpoenas duces tecum**

(a) The coroner may issue subpoenas for witnesses, returnable forthwith or at such time and place as the coroner appoints, which may be served by any competent person. The coroner may also require any such witness to bring with him or her any books, records, documents, or other things under the control of the witness which, in the opinion of the coroner, are necessary to the conduct of the inquest and as a further aid in determining the circumstances, manner, and cause of death of the decedent. To enforce the provisions of this section, the coroner may issue subpoenas duces tecum in accordance with Section 1985 of the Code of Civil Procedure. In case of failure of a witness to attend, and in the case of a subpoena duces tecum, for the failure to produce the items set forth therein, the coroner, or the coroner's authorized deputy, issuing the subpoena upon proof of service thereof, and the failure of the witness, may certify the facts to the superior court in the county where the proceedings are held. The court shall thereupon issue an order directing the person

to appear before the court and show cause why he or she should not be ordered to comply. The order and a copy of the certified statement shall be served on the person. Thereafter the court shall have jurisdiction of the matter. The same proceedings shall be had, the same penalties may be imposed and the person charged may purge himself or herself of the contempt in the same way as in the case of a person who has committed a contempt in the trial of a civil action before a superior court. The items set forth on the subpoena duces tecum shall not be made public unless an inquest is held.

(b) Any books, records, documents, or other things under the control of a law enforcement agency, subpoenaed pursuant to subdivision (a), shall not themselves be made a part of the record in any coroner's inquest without the written consent of the law enforcement agency, when such inquest pertains to a death caused by a police officer.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1975 ch 576 § 1; Stats 1978 ch 1198 § 1.

### **§ 27499. Persons to be summoned and examined; Surgeon, physician, or chemist**

The coroner shall summon and examine as witnesses every person who in his opinion or that of any of the jury has any knowledge of the facts. He may summon a surgeon or physician to inspect the body or hold a post mortem examination or a chemist to make an analysis of the stomach or the tissues of the deceased and give a professional opinion as to the cause of the death.

**HISTORY:** Added Stats 1947 ch 424 § 1.

### **§ 27499.1. Subpoena of witnesses where names furnished to coroner**

Where the names and addresses of possible witnesses have been furnished to the coroner by the next of kin of the deceased, an attorney for the next of kin, or the district attorney, the coroner shall, if it reasonably appears to him that the persons named are in fact necessary witnesses, subpoena such persons to appear at the inquest hearing.

**HISTORY:** Added Stats 1969 ch 1220 § 3.

### **§ 27500. Witness failing to attend guilty of misdemeanor**

Any witness served with a subpoena who wilfully and without reasonable excuse fails to attend and testify is guilty of a misdemeanor.

**HISTORY:** Added Stats 1947 ch 424 § 1.

### **§ 27501. Adjournment of inquest**

The coroner may adjourn the inquest from time to time as may be necessary.

**HISTORY:** Added Stats 1947 ch 424 § 1.

### **§ 27502. Reduction of testimony to writing; Transcription; Certified transcription to constitute deposition; Compensation of clerk or stenographer**

The coroner shall cause the testimony given by any witness to be reduced to writing or recorded either in shorthand or by a mechanical recording device. It may, if recorded, at his discretion, be transcribed into type-writing by him or under his direction. He may employ a clerk or stenographer for the purpose. When the testimony is taken down by a stenographer, his duly certified transcription thereof constitutes the deposition of the witness. The compensation of the clerk or stenographer shall be the same as that allowed to stenographers in the superior court of the county and is a legal charge against the county.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1947 ch 575 § 2.

### **§ 27502.2. Verdict or decision inadmissible in civil or criminal proceeding**

The inquest verdict or decision shall be inadmissible as evidence in any civil or criminal proceeding.

**HISTORY:** Added Stats 1969 ch 1220 § 5.

### **§ 27503. Filing testimony**

The transcript of the testimony of the witnesses examined in the coroner's inquest shall be completed and filed within 10 days following the inquest with either the coroner's office or the county clerk as determined by the board of supervisors.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1969 ch 1220 § 2; Stats 1971 ch 1175 § 1.

**§ 27504. Verdict; Certification; Form**

After hearing the testimony, the jury shall render its verdict and certify it by an inquisition in writing signed by the members of the jury, or the coroner shall render his decision if the inquest is by the coroner sitting without a jury, setting forth the name of the deceased, the time and place of death, the medical cause of death and whether the death was by (1) natural causes, (2) suicide, (3) accident, or (4) the hands of another person other than by accident. Such findings shall not include nor shall they make any reference to civil or criminal responsibility on the part of the deceased or any other person.

**HISTORY:** Added Stats 1947 ch 424 § 1. Amended Stats 1969 ch 1220 § 7; Stats 1971 ch 1573 § 1.

**§ 27504.1. Findings that deceased died at the hands of another; Notification of district attorney; Sufficiency of information for death certificates**

If the findings are that the deceased met his or her death at the hands of another, the coroner shall, in addition to filing the report in his or her office or with the county clerk, as determined by the board of supervisors pursuant to Section 27503, transmit his or her written findings to the district attorney, the police agency wherein the dead body was recovered, and any other police agency requesting copies of the findings.

The findings and conclusions provided for in this article shall be sufficient to satisfy the cause of death information required in death certificates under Section 102875 of the Health and Safety Code.

**HISTORY:** Added Stats 1969 ch 1220 § 8. Amended Stats 1996 ch 1023 § 97, effective September 29, 1996; Stats 2002 ch 221 § 36 (SB 1019).

**§ 27511. Only one inquest upon body**

There shall be but one inquest upon a body, unless that taken is set aside by the court, and there shall be but one inquest held upon several bodies of persons who were killed by the same cause and died at the same time.

**HISTORY:** Added Stats 1947 ch 424 § 1.

**§ 27512. Error in identity of body; Calling another inquest; Entry of memorandum of error**

If it appears that an error in the identity of the body has been made by the jury, the coroner may call another inquest without reference to the court, and a memorandum of the error shall be entered upon the erroneous inquisition.

**HISTORY:** Added Stats 1947 ch 424 § 1.

**ARTICLE 2.5 AUTOPSY****Section**

- 27520. Autopsy on request of decedent's surviving spouse or next of kin
- 27521. Procedures for postmortem examination or autopsy
- 27521.1. Report of death of unidentified person to Department of Justice
- 27522. Forensic autopsy

**HISTORY:** Added Stats 1965 ch 1946 § 1.

**§ 27520. Autopsy on request of decedent's surviving spouse or next of kin**

(a) The coroner shall cause to be performed an autopsy on a decedent, for which an autopsy has not already been performed, if the surviving spouse requests him or her to do so in writing. If there is no surviving spouse, the coroner shall cause an autopsy to be performed if requested to do so in writing by a surviving child or parent, or if there is no surviving child or parent, by the next of kin of the deceased.

(b) The coroner may cause to be performed an autopsy on a decedent, for which an autopsy has already been performed, if the surviving spouse requests him or her to do so in writing. If there is no surviving spouse, the coroner may cause an autopsy to be performed if requested to do so in writing by a surviving child or parent, or if there is no surviving child or parent, by the next of kin of the deceased.

(c) The cost of an autopsy requested pursuant to either subdivision (a) or (b) shall be borne by the person requesting that it be performed.

**HISTORY:** Added Stats 1965 ch 1946 § 1. Amended Stats 2008 ch 45 § 2 (SB 1196), effective January 1, 2009; Stats 2016 ch 787 § 6 (SB 1189), effective January 1, 2017.

**§ 27521. Procedures for postmortem examination or autopsy**

(a) A postmortem examination or autopsy conducted at the discretion of a coroner, medical examiner, or other agency upon an unidentified body or human remains is subject to this section.



(b) Any agency tasked with the exhumation of a body or skeletal remains of a deceased person that has suffered significant deterioration or decomposition, where the circumstances surrounding the death afford a reasonable basis to suspect that the death was caused by or related to the criminal act of another, may perform the exhumation in consultation with a board-certified forensic pathologist certified by the American Board of Pathology. The board-certified forensic pathologist may suggest that the agency tasked with an exhumation pursuant to this subdivision consider retaining the services of an anthropologist in order to conduct the exhumation with the highest dignity for potential victims, the least damage to a potential crime scene, and the best chance for victim recovery and identification.

(c) A postmortem examination or autopsy shall include, but shall not be limited to, the following procedures:

(1) Taking of all available fingerprints and palm prints.

(2) A dental examination consisting of dental charts and dental X-rays of the deceased person's teeth, which may be conducted on the body or human remains by a qualified dentist as determined by the coroner or medical examiner.

(3) The collection of tissue, including a hair sample, or body fluid samples for future DNA testing, if necessary.

(4) Frontal and lateral facial photographs with the scale indicated.

(5) Notation and photographs, with a scale, of significant scars, marks, tattoos, clothing items, or other personal effects found with or near the body.

(6) Notations of observations pertinent to the estimation of the time of death.

(7) Precise documentation of the location of the remains.

(d) The postmortem examination or autopsy of the unidentified body or remains may include full body X-rays or computed tomography scans.

(e)(1) At the sole and exclusive discretion of a coroner, medical examiner, or other agency tasked with performing an autopsy pursuant to Section 27491, an electronic image system, including, but not limited to, an X-ray machine or computed tomography scanning system, may be used to fulfill the requirements of subdivision (c) or of a postmortem examination or autopsy required by other law, including, but not limited to, Section 27520.

(2) This subdivision does not impose a duty upon any coroner, medical examiner, or other agency tasked with performing autopsies pursuant to Section 27491 to use an electronic image system to perform autopsies or to acquire the capability to do so.

(3) A coroner, medical examiner, or other agency tasked with performing an autopsy pursuant to Section 27491 shall not use an electronic imaging system to conduct an autopsy in any investigation where the circumstances surrounding the death afford a reasonable basis to suspect that the death was caused by or related to the criminal act of another and it is necessary to collect evidence for presentation in a court of law. If the results of an autopsy performed using electronic imaging provides the basis to suspect that the death was caused by or related to the criminal act of another, and it is necessary to collect evidence for presentation in a court of law, then a dissection autopsy shall be performed in order to determine the cause and manner of death.

(4) An autopsy may be conducted using an X-ray or computed tomography scanning system notwithstanding the existence of a certificate of religious belief properly executed in accordance with Section 27491.43.

(f) The coroner, medical examiner, or other agency performing a postmortem examination or autopsy shall prepare a final report of investigation in a format established by the Department of Justice. The final report shall list or describe the information collected pursuant to the postmortem examination or autopsy conducted under subdivision (c).

(g) The unidentified body or human remains shall not be cremated or buried until the appropriate samples of tissue and bone are retained for future possible use.

(h) For an unidentified body or human remains, appropriate samples of tissue and bone shall be taken before the body or human remains are cremated or buried. The types of samples of tissue and bone that are taken shall be determined by the coroner or medical examiner. The samples obtained, the method of procurement or dissection of those samples, and the handling, processing, and storage of samples shall be within, and guided by, the generally accepted standards of forensic pathology and death investigation.

(i) The coroner, medical examiner, or other agency responsible for a postmortem examination or autopsy shall retain the appropriate samples of tissue and bone for one year after a positive identification is made, and no civil or criminal challenges are pending, or indefinitely.

(j) If the coroner, medical examiner, or other agency performing a postmortem examination or autopsy with the aid of the dental examination and any other identifying findings is unable to establish the identity of the body or human remains, the coroner, medical examiner, or other agency shall submit dental charts and den-

tal X-rays of the unidentified deceased person to the Department of Justice on forms supplied by the Department of Justice within 45 days of the date the body or human remains were discovered.

(k) If the coroner, medical examiner, or other agency performing a postmortem examination or autopsy with the aid of the dental examination and other identifying findings is unable to establish the identity of the body or human remains, the coroner, medical examiner, or other agency shall submit the final report of investigation to the Department of Justice within 180 days of the date the body or human remains were discovered. The final report of investigation shall list or describe the information collected pursuant to the postmortem examination or autopsy and any anthropology report, fingerprints, photographs, and autopsy report.

**HISTORY:** Added Stats 2000 ch 284 § 1 (SB 1736). Amended Stats 2014 ch 437 § 6 (SB 1066), effective January 1, 2015; Stats 2016 ch 136 § 1 (AB 2457), effective January 1, 2017; Stats 2017 ch 561 § 86 (AB 1516), effective January 1, 2018; Stats 2018 ch 936 § 1 (SB 1163), effective January 1, 2019.

### **§ 27521.1. Report of death of unidentified person to Department of Justice**

The law enforcement agency investigating the death of an unidentified person shall report the death to the Department of Justice, in a format acceptable to the Department of Justice, no later than 10 calendar days after the date the body or human remains were discovered.

**HISTORY:** Added Stats 2000 ch 284 § 2 (SB 1736).

### **§ 27522. Forensic autopsy**

(a) A forensic autopsy shall only be conducted by a licensed physician and surgeon. The results of a forensic autopsy shall only be determined by a licensed physician and surgeon.

(b) A forensic autopsy shall be defined as an examination of a body of a decedent to generate medical evidence for which the cause of death is determined. At the direction and supervision of a coroner, a medical examiner, or a licensed physician and surgeon, trained county personnel who are necessary to the performance of an autopsy may take body measurements or retrieve blood, urine, or vitreous samples from the body of a decedent.

(c) For purposes of this section, a postmortem examination shall be defined as the external examination of the body where no manner or cause of death is determined.

(d) For purposes of this section, the manner of death shall be determined by the coroner or medical examiner of a county. If a forensic autopsy is conducted by a licensed physician and surgeon, the coroner or medical examiner shall consult with the licensed physician and surgeon in the determination of the manner of death.

(e) For health and safety purposes, all persons in the autopsy suite shall be informed of the risks presented by bloodborne pathogens and that they should wear personal protective equipment in accordance with the requirements described in Section 5193 of Title 8 of the California Code of Regulations or its successor.

(f)(1) Only individuals who are directly involved in the investigation of the death of the decedent shall be allowed into the autopsy suite.

(2) If an individual dies due to the involvement of law enforcement activity, law enforcement personnel directly involved in the death of that individual shall not be involved with any portion of the postmortem examination, nor allowed inside the autopsy suite during the performance of the autopsy.

(3) Notwithstanding paragraph (1), individuals may be permitted in the autopsy suite for educational and research purposes at the discretion of the coroner and in consultation with any licensed physician and surgeon conducting an autopsy.

(g) Any police reports, crime scene or other information, videos, or laboratory tests that are in the possession of law enforcement and are related to a death that is incident to law enforcement activity shall be made available to the physician and surgeon who conducts the autopsy prior to the completion of the investigation of the death.

(h) This section shall not be construed to limit the practice of an autopsy for educational or research purposes.

**HISTORY:** Added Stats 2016 ch 787 § 7 (SB 1189), effective January 1, 2017.

## **ARTICLE 3 VACANCY**

Section

27530. Coroner absent or unable to attend; Discharge of office by deputies

### **§ 27530. Coroner absent or unable to attend; Discharge of office by deputies**

If the coroner is absent or unable to attend, the duties of his office may be discharged by any of his deputies with like authority and subject to the same obligations and penalties as the coroner.

**HISTORY:** Added Stats 1947 ch 424 § 1.

# WELFARE AND INSTITUTIONS CODE

## DIVISION 9 PUBLIC SOCIAL SERVICES

### Part

- 3. Aid and Medical Assistance
- 5. County Aid and Relief to Indigents

**HISTORY:** Added Stats 1965 ch 1784 § 5.

## PART 3 AID AND MEDICAL ASSISTANCE

### Chapter

- 1. General Provisions
- 3. State Supplementary Program for Aged, Blind and Disabled

**HISTORY:** Added Stats 1965 ch 1784 § 5.

## CHAPTER 1 GENERAL PROVISIONS

**HISTORY:** Added Stats 1965 ch 1784 § 5.

## ARTICLE 4 PROPERTY QUALIFICATIONS

### Section

- 11150. Intent and application of article; Considerations governing formulation of regulations
- 11158. Exclusion of resources allocated for funeral, burial, or cremation expenses
- 11159. Payments received by members of household occupying assisted unit not considered income or resources of recipient

**HISTORY:** Added Stats 1965 ch 1784 § 5.

### § 11150. Intent and application of article; Considerations governing formulation of regulations

It is the intent of this article to set forth the amount of personal or real property, or both, which an applicant for, or recipient of, public assistance may retain and remain eligible to receive public assistance provided he meets the other eligibility requirements for the category of public assistance for which he or she is an applicant or recipient.

In the formulation of any regulations pursuant to this article and in the administration thereof, consideration shall be given to the ability and circumstances of the applicant or recipient in order that undue hardship is not imposed upon any applicant or recipient in making plans to comply with the provisions of this article. No applicant or recipient shall be considered ineligible for retaining property where disposition would alter or impair reasonable access to, or the normal use of, his or her home.

This article does not apply to aid to families with dependent children or Chapter 3 (commencing with Section 12000) or Chapter 7 (commencing with Section 14000) of this part, unless otherwise expressly indicated.

**HISTORY:** Added Stats 1965 ch 1784 § 5. Amended Stats 1973 ch 1216 § 31, effective December 5, 1973, operative January 1, 1974; Stats 1982 ch 328 § 3, effective June 30, 1982.

### § 11158. Exclusion of resources allocated for funeral, burial, or cremation expenses

The Legislature recognizes that certain property and rights owned by a recipient, including a recipient of aid to families with dependent children, are of negligible value in enabling the recipient to meet his or her present needs, and should not be classified as available resources of the recipient. It is the purpose of this section to designate such property and rights.

Resources available to a recipient, including a recipient of aid to families with dependent children shall not include all of the following:

(a) Money or securities placed in an irrevocable trust for funeral, cremation, or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code or Section 8775 of the Health and Safety Code.

(b) Money or securities placed in an irrevocable trust created by a deposit in an insured savings institution made by one person of his or her own money in his or her own name as trustee for a funeral director to provide payment for funeral services rendered by the funeral director upon the depositor's death.

(c) Life or burial insurance purchased specifically for funeral, cremation, or interment expense, which is placed in an irrevocable trust or which has no loan or surrender value available to the recipient.

(d) Securities issued by a licensed cemetery authority which by their terms are convertible only into payment for funeral, cremation, or interment expenses.

(e) Other funeral agreements to the extent consistent with federal law.

For the purposes of evaluating the personal property of a recipient, interment plots as defined in Section 7022 of the Health and Safety Code shall be deemed to have no value.

**HISTORY:** Added Stats 1965 ch 1784 § 5. Amended Stats 1965 ch 1444 § 2; Stats 1968 ch 1405 § 2; Stats 1977 ch 734 § 1; Stats 1979 ch 465 § 1; Stats 1981–82 1st Ex Sess ch 3 § 11, effective February 17, 1982; Stats 1982 ch 1520 § 3, effective September 30, 1982; Stats 1984 ch 1447 § 5, effective September 26, 1984; Stats 1986 ch 1402 § 5.

### **§ 11159. Payments received by members of household occupying assisted unit not considered income or resources of recipient**

No payment received by, or for the benefit of any members of, an eligible household occupying an assisted unit under Chapter 9 (commencing with Section 50735) of Part 2 of Division 31 of the Health and Safety Code, shall be considered as income or resources to any recipient, including a recipient of aid to families with dependent children, and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under any other provision of law.

**HISTORY:** Added Stats 1979 ch 1045 § 30.

## **CHAPTER 3 STATE SUPPLEMENTARY PROGRAM FOR AGED, BLIND AND DISABLED**

**HISTORY:** Added Stats 1973 ch 1216 § 37, effective December 5, 1973, operative January 1, 1974. Former Chapter 3, entitled "Old Age Security Law", consisting of §§ 12000–12252, was added Stats 1965 ch 1784 § 5, amended Stats 1965 ch 1504 § 2, ch 1846 § 6, Stats 1967 ch 1585 § 2, Stats 1971 ch 438 § 199, ch 578 §§ 32.5, 32.9, 33, 34, 34.1, effective August 13, 1971, operative October 1, 1971, ch 1593 § 556, operative July 1, 1973, Stats 1972 ch 456 § 3, ch 625 §§ 1, 2, ch 1064 § 1, effective August 17, 1972, ch 1368 § 2, Stats 1973 ch 987 § 18, operative January 1, 1975, ch 1212 § 409, operative July 1, 1974, and repealed Stats 1973 ch 1216 § 36, effective December 5, 1973, operative January 1, 1974.

## **ARTICLE 4 ELIGIBILITY**

### **Section**

- 12150. Entitlement to state benefits for persons receiving or eligible to receive federal benefits
- 12152. Additional amounts of income or resources disregarded
- 12153. Selection of coverage classification by persons having multiple eligibility
- 12156. Examination to determine blindness

**HISTORY:** Added Stats 1973 ch 1216 § 37, effective December 5, 1973, operative January 1, 1974.

### **§ 12150. Entitlement to state benefits for persons receiving or eligible to receive federal benefits**

Persons who are receiving federal supplemental security income benefits, or who but for their income, are eligible to receive such benefits under Title XVI of the Social Security Act, or who are made eligible for supplemental benefits by other provisions of this chapter are entitled to receive state supplementation pursuant to this chapter.

**HISTORY:** Added Stats 1973 ch 1216 § 37, effective December 5, 1973, operative January 1, 1974.

### **§ 12152. Additional amounts of income or resources disregarded**

In determining eligibility of any individual for the state supplementary payment administered by the federal government, in addition to any other income or resources disregarded by the secretary, the following additional amounts of income or resources of the individual shall be disregarded:

(a) Funds for readers, or educational scholarships, or both, which are not available to meet basic needs and which have been awarded by a high school, college, or university or a vocational or technical training institution to any recipient of aid to the aged, blind or disabled under this chapter due to his or her blindness while he or she is regularly attending any public school in this state, the University of California, or any other institution of higher learning in this state, shall not be deemed property, income, or resource of the recipient for any purpose and no deduction therefor shall be made from the recipient's amount of aid.

(b) The value and the occupancy value of the home owned by the aged, blind or disabled individual or in combination with any other person if it serves to provide him or her with a home. In the event that this subdivision is in conflict with federal regulations pertaining to the value of such home, federal law shall supersede this subdivision with the respect to the value of such home. Persons who would otherwise be eligible under this chapter except for the value of their home, shall nevertheless be entitled to grants under this chapter at the same level as are established for persons whose home is within the federal home value limits. Payments for such persons shall, if federal law permits, be administered by the secretary. If federal law does not so permit, such grants shall be paid by the counties, and the costs, including administrative costs, shall be deducted from the individual county's contribution required under Section 12400.

(c) Additional payments made from any source to a vendor in order to meet the needs of recipients as determined by the county welfare department.



(d) Any other exclusions provided for in Chapter 4 (commencing with Section 12500) and Chapter 6.5 (commencing with Section 13900).

(e) The value of the following items in the aggregate except that any amount paid in excess of one thousand eight hundred dollars (\$1,800) or the dollar limit imposed by federal law, whichever is lower, shall not be disregarded:

(1) Money or securities placed in an irrevocable trust for funeral, cremation, or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code or Section 8775 of the Health and Safety Code.

(2) Money or securities placed in an irrevocable trust created by a deposit in an insured savings institution made by one person of his or her own money in his or her own name as trustee for a funeral director to provide payment for funeral services rendered the funeral director upon the depositor's death.

(3) Life or burial insurance purchased specifically for funeral, cremation, or interment expense, which is placed in an irrevocable trust or which has no loan or surrender value available to the recipient.

(4) Securities issued by a licensed cemetery authority which by their terms are convertible into payment for funeral, cremation, or interment expenses.

(f) Interment plots as defined in Section 7022 of the Health and Safety Code.

**HISTORY:** Added Stats 1973 ch 1216 § 37, effective December 5, 1973, operative January 1, 1974. Amended Stats 1982 ch 1520 § 4, effective September 30, 1982.

### **§ 12153. Selection of coverage classification by persons having multiple eligibility**

To the extent permitted by federal law, any recipient who meets the eligibility criteria of more than one classification of recipient described under this chapter as aged, blind or disabled, shall be permitted to select his classification of coverage.

**HISTORY:** Added Stats 1973 ch 1216 § 37, effective December 5, 1973, operative January 1, 1974.

### **§ 12156. Examination to determine blindness**

In determining, for purposes of this chapter, whether an individual is blind, there shall be an examination of such individual by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select in accordance with applicable federal law.

**HISTORY:** Added Stats 1974 ch 1141 § 1, effective September 23, 1974.

## **PART 5 COUNTY AID AND RELIEF TO INDIGENTS**

**HISTORY:** Added Stats 1965 ch 1784 § 5.

## **CHAPTER 5 TERMINATION AND RECOVERY OF ASSISTANCE**

### **Section**

17402. Sale of property of deceased indigent's estate

17409. Exemptions from public aid reimbursement; Emergency medical or hospital care not to be withheld by county pending giving of security

**HISTORY:** Added Stats 1965 ch 1784 § 5.

### **§ 17402. Sale of property of deceased indigent's estate**

If there is in the hands of any officer of the county, or there is surrendered to any officer of the county, upon the death of any indigent person, any personal property of a total of less than twenty-five dollars (\$25) in value, belonging to such person, the board of supervisors of the county may, by resolution, order such property to be sold, and if the proceeds thereof do not exceed the sum of twenty-five dollars (\$25), they shall be applied to the payment of the claim of the county against such person. If the value of such property or the proceeds received from its sale exceeds the sum of twenty-five dollars (\$25), or exceeds the indebtedness due to the county, such property or the proceeds of the sale thereof in excess of twenty-five dollars (\$25), or the amount of the claims of the county, shall be delivered to the public administrator of the county or to any other legal representative of the deceased for administration.

**HISTORY:** Added Stats 1965 ch 1784 § 5.

### **§ 17409. Exemptions from public aid reimbursement; Emergency medical or hospital care not to be withheld by county pending giving of security**

There shall be exempt from the transfers and grants authorized by Section 17109 and from execution on claims under Section 17403 against property acquired by persons for the support of whom public moneys have been expended all of the following property:



- (a) Cash not exceeding one hundred dollars (\$100).
  - (b) Personal effects and household furniture not exceeding one thousand dollars (\$1,000) in value.
  - (c) An interment space, crypt, or niche intended for the interment of the applicant or recipient of aid.
  - (d) Funds placed in trust for funeral or burial expenses not exceeding one thousand dollars (\$1,000).
  - (e) Insurance policies having an actual cash surrender value not exceeding one thousand dollars (\$1,000).
  - (f) Real or personal property of a recipient of public assistance, with respect to aid or county hospital care.
  - (g) For a period of six months from the date of receipt, the compensation received from a public entity which acquires for a public use a dwelling actually owned and occupied by the recipient. Such compensation shall be exempt in the amount, over and above all liens and encumbrances, provided by Section 704.730 of the Code of Civil Procedure.
  - (h) Relocation benefits shall be exempt as provided by Section 704.180 of the Code of Civil Procedure.
- No county shall withhold emergency medical or hospital care from any person pending the person giving security for reimbursement to the county for the care or hospitalization to be provided to the person.

**HISTORY:** Added Stats 1965 ch 1784 § 5. Amended Stats 1974 ch 47 § 8, effective February 28, 1974, ch 1516 § 47, operative January 1, 1977; Stats 1982 ch 497 § 184, operative July 1, 1983; Stats 2003 ch 379 § 12 (AB 182).

# Code of Federal Regulations

## TITLE 16

### COMMERCIAL PRACTICES

#### CHAPTER I FEDERAL TRADE COMMISSION

#### SUBCHAPTER D TRADE REGULATION RULES

#### PART 453 FUNERAL INDUSTRY PRACTICES

##### Section

- 453.1. Definitions.
- 453.2. Price disclosures.
- 453.3. Misrepresentations.
- 453.4. Required purchase of funeral goods or funeral services.
- 453.5. Services provided without prior approval.
- 453.6. Retention of documents.
- 453.7. Comprehension of disclosures.
- 453.8. Declaration of intent.
- 453.9. State exemptions.

**Authority:** 15 U.S.C. 57a(a); 15 U.S.C. 46(g); 5 U.S.C. 552.

##### **§ 453.1 Definitions.**

(a) Alternative container. An “alternative container” is an unfinished wood box or other non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed-wood, composition materials (with or without an outside covering) or like materials.

(b) Cash advance item. A “cash advance item” is any item of service or merchandise described to a purchaser as a “cash advance,” “accommodation,” “cash disbursement,” or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser’s behalf. Cash advance items may include, but are not limited to: cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities and death certificates.

(c) Casket. A “casket” is a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic, or like material, and ornamented and lined with fabric.

(d) Commission. “Commission” refers to the Federal Trade Commission.

(e) Cremation. “Cremation” is a heating process which incinerates human remains.

(f) Crematory. A “crematory” is any person, partnership or corporation that performs cremation and sells funeral goods.

(g) Direct cremation. A “direct cremation” is a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

(h) Funeral goods. “Funeral goods” are the goods which are sold or offered for sale directly to the public for use in connection with funeral services.

(i) Funeral provider. A “funeral provider” is any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public.

(j) Funeral services. “Funeral services” are any services which may be used to:

(1) Care for and prepare deceased human bodies for burial, cremation or other final disposition; and

(2) arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

(k) Immediate burial. An “immediate burial” is a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present, except for a graveside service.

(l) Memorial service. A “memorial service” is a ceremony commemorating the deceased without the body present.

(m) Funeral ceremony. A “funeral ceremony” is a service commemorating the deceased with the body present.

(n) Outer burial container. An “outer burial container” is any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

(o) Person. A “person” is any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

(p) Services of funeral director and staff. The “services of funeral director and staff” are the basic services, not to be included in prices of other categories in § 453.2(b)(4), that are furnished by a funeral provider in arranging any funeral, such as conducting the arrangements conference, planning the funeral, obtaining necessary permits, and placing obituary notices.

**HISTORY:**

[49 FR 563, Jan. 5, 1984.; 59 FR 1611, Jan. 11, 1994].

**§ 453.2 Price disclosures.**

(a) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals. Any funeral provider who complies with the preventive requirements in paragraph (b) of this section is not engaged in the unfair or deceptive acts or practices defined here.

(b) Preventive requirements. To prevent these unfair or deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in § 453.4(b)(1), funeral providers must:

(1) Telephone price disclosure. Tell persons who ask by telephone about the funeral provider’s offerings or prices any accurate information from the price lists described in paragraphs (b)(2) through (4) of this section and any other readily available information that reasonably answers the question.

**(2) Casket price list.**

(i) Give a printed or typewritten price list to people who inquire in person about the offerings or prices of caskets or alternative containers. The funeral provider must offer the list upon beginning discussion of, but in any event before showing caskets. The list must contain at least the retail prices of all caskets and alternative containers offered which do not require special ordering, enough information to identify each, and the effective date for the price list. In lieu of a written list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner. Provided, however, that funeral providers do not have to make a casket price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information required by this paragraph.

(ii) Place on the list, however produced, the name of the funeral provider’s place of business and a caption describing the list as a “casket price list.”

**(3) Outer burial container price list.**

(i) Give a printed or typewritten price list to persons who inquire in person about outer burial container offerings or prices. The funeral provider must offer the list upon beginning discussion of, but in any event before showing the containers. The list must contain at least the retail prices of all outer burial containers offered which do not require special ordering, enough information to identify each container, and the effective date for the prices listed. In lieu of a written list, the funeral provider may use other formats, such as notebooks, brochures, or charts, if they contain the same information as the printed or typewritten list, and display it in a clear and conspicuous manner. Provided, however, that funeral providers do not have to make an outer burial container price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information required by this paragraph.

(ii) Place on the list, however produced, the name of the funeral provider’s place of business and a caption describing the list as an “outer burial container price list.”

(4) General price list. (i)(A) Give a printed or typewritten price list for retention to persons who inquire in person about the funeral goods, funeral services or prices of funeral goods or services offered by the funeral provider. The funeral provider must give the list upon beginning discussion of any of the following:

- (1) The prices of funeral goods or funeral services;
- (2) The overall type of funeral service or disposition; or
- (3) Specific funeral goods or funeral services offered by the funeral provider.

(B) The requirement in paragraph (b)(4)(i)(A) of this section applies whether the discussion takes place in the funeral home or elsewhere. Provided, however, that when the deceased is removed for transportation to the funeral home, an in-person request at that time for authorization to embalm, required by § 453.5(a)(2), does not, by itself, trigger the requirement to offer the general price list if the provider in seeking prior embalming approval discloses that embalming is not required by law except in certain special cases, if any. Any other discussion during that time about prices or the selection of funeral goods or services triggers the requirement under paragraph (b)(4)(i)(A) of this section to give consumers a general price list.

(C) The list required in paragraph (b)(4)(i)(A) of this section must contain at least the following information:

- (1) The name, address, and telephone number of the funeral provider's place of business;
  - (2) A caption describing the list as a "general price list"; and
  - (3) The effective date for the price list;
- (ii) Include on the price list, in any order, the retail prices (expressed either as the flat fee, or as the price per hour, mile or other unit of computation) and the other information specified below for at least each of the following items, if offered for sale:
- (A) Forwarding of remains to another funeral home, together with a list of the services provided for any quoted price;
  - (B) Receiving remains from another funeral home, together with a list of the services provided for any quoted price;
  - (C) The price range for the direct cremations offered by the funeral provider, together with:
    - (1) A separate price for a direct cremation where the purchaser provides the container;
    - (2) Separate prices for each direct cremation offered including an alternative container;and
    - (3) A description of the services and container (where applicable), included in each price;
  - (D) The price range for the immediate burials offered by the funeral provider, together with:
    - (1) A separate price for an immediate burial where the purchaser provides the casket;
    - (2) Separate prices for each immediate burial offered including a casket or alternative container; and
    - (3) A description of the services and container (where applicable) included in that price;
  - (E) Transfer of remains to funeral home;
  - (F) Embalming;
  - (G) Other preparation of the body;
  - (H) Use of facilities and staff for viewing;
  - (I) Use of facilities and staff for funeral ceremony;
  - (J) Use of facilities and staff for memorial service;
  - (K) Use of equipment and staff for graveside service;
  - (L) Hearse; and
  - (M) Limousine.
- (iii) Include on the price list, in any order, the following information:
- (A) Either of the following:
    - (1) The price range for the caskets offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or
    - (2) The prices of individual caskets, disclosed in the manner specified by paragraph (b)(2)(i) of this section; and
  - (B) Either of the following:
    - (1) The price range for the outer burial containers offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or
    - (2) The prices of individual outer burial containers, disclosed in the manner specified by paragraph (b)(3)(i) of this section; and

(C) Either of the following:

(1) The price for the basic services of funeral director and staff, together with a list of the principal basic services provided for any quoted price and, if the charge cannot be declined by the purchaser, the statement: "This fee for our basic services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)". If the charge cannot be declined by the purchaser, the quoted price shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase "and overhead" after the word "services"; or

(2) The following statement: "Please note that a fee of (specify dollar amount) for the use of our basic services is included in the price of our caskets. This same fee shall be added to the total cost of your funeral arrangements if you provide the casket. Our services include (specify)." The fee shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase "and overhead" after the word "services." The statement must be placed on the general price list together with the casket price range, required by paragraph (b)(4)(iii)(A)(1) of this section, or together with the prices of individual caskets, required by (b)(4)(iii)(A)(2) of this section.

(iv) The services fee permitted by § 453.2(b)(4)(iii)(C)(1) or (C)(2) is the only funeral provider fee for services, facilities or unallocated overhead permitted by this part to be non-declinable, unless otherwise required by law.

(5) Statement of funeral goods and services selected

(i) Give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information:

(A) The funeral goods and funeral services selected by that person and the prices to be paid for each of them;

(B) Specifically itemized cash advance items. (These prices must be given to the extent then known or \*1613 reasonably ascertainable. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid.); and

(C) The total cost of the goods and services selected.

(ii) The information required by this paragraph (b)(5) may be included on any contract, statement, or other document which the funeral provider would otherwise provide at the conclusion of discussion of arrangements.

(6) Other pricing methods. Funeral providers may give persons any other price information, in any other format, in addition to that required by § 453.2(b)(2), (3), and (4) so long as the statement required by § 453.2(b)(5) is given when required by the rule.

#### HISTORY:

[47 FR 23399, Sept. 24, 1982; 59 FR 1611, Jan. 11, 1994.].

### § 453.3 Misrepresentations.

(a) **Embalming provisions.** — (1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires that a deceased person be embalmed when such is not the case;

(ii) Fail to disclose that embalming is not required by law except in certain special cases, if any.

(2) Preventive requirements. To prevent these deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in §§ 453.4(b)(1) and 453.5(2), funeral providers must:

(i) Not represent that a deceased person is required to be embalmed for:

(A) Direct cremation;

(B) Immediate burial; or

(C) A closed casket funeral without viewing or visitation when refrigeration is available and when state or local law does not require embalming; and



(ii) Place the following disclosure on the general price list, required by § 453.2(b)(4), in immediate conjunction with the price shown for embalming: “Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial.” The phrase “except in certain special cases” need not be included in this disclosure if state or local law in the area(s) where the provider does business does not require embalming under any circumstances.

(b) Casket for cremation provisions —

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

- (i) Represent that state or local law requires a casket for direct cremations;
- (ii) Represent that a casket is required for direct cremations.

(2) Preventive requirements. To prevent these deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in § 453.4(a)(1), funeral providers must place the following disclosure in immediate conjunction with the price range shown for direct cremations: “If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are (specify containers).” This disclosure only has to be placed on the general price list if the funeral provider arranges direct cremations.

(c) Outer burial container provisions —

(1) Deceptive acts or practices. In selling or offering to sell funeral goods and funeral services to the public, it is a deceptive act or practice for a funeral provider to:

- (i) Represent that state or local laws or regulations, or particular cemeteries, require outer burial containers when such is not the case;
- (ii) Fail to disclose to persons arranging funerals that state law does not require the purchase of an outer burial container.

(2) Preventive requirement. To prevent these deceptive acts or practices, funeral providers must place the following disclosure on the outer burial container price list, required by § 453.2(b)(3)(i), or, if the prices of outer burial containers are listed on the general price list, required by § 453.2(b)(4), in immediate conjunction with those prices: “In most areas of the country, state or local law does not require that you buy a container to surround the casket in the grave. However, many cemeteries require that you have such a container so that the grave will not sink in. Either a grave liner or a burial vault will satisfy these requirements.” The phrase “in most areas of the country” need not be included in this disclosure if state or local law in the area(s) where the provider does business does not require a container to surround the casket in the grave.

(d) **General provisions on legal and cemetery requirements —**

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for funeral providers to represent that federal, state, or local laws, or particular cemeteries or crematories, require the purchase of any funeral goods or funeral services when such is not the case.

(2) Preventive requirements. To prevent these deceptive acts or practices, as well as the deceptive acts or practices identified in §§ 453.3(a)(1), 453.3(b)(1), and 453.3(c)(1), funeral providers must identify and briefly describe in writing on the statement of funeral goods and services selected (required by § 453.2(b)(5)) any legal, cemetery, or crematory requirement which the funeral provider represents to persons as compelling the purchase of funeral goods or funeral services for the funeral which that person is arranging.

(e) Provisions on preservative and protective value claims. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

- (1) Represent that funeral goods or funeral services will delay the natural decomposition of human remains for a long-term or indefinite time;

(2) Represent that funeral goods have protective features or will protect the body from gravesite substances, when such is not the case.

(f) Cash advance provisions —

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that the price charged for a cash advance item is the same as the cost to the funeral provider for the item when such is not the case;

(ii) Fail to disclose to persons arranging funerals that the price being charged for a cash advance item is not the same as the cost to the funeral provider for the item when such is the case.

(2) Preventive requirements. To prevent these deceptive acts or practices, funeral providers must place the following sentence in the itemized statement of funeral goods and services selected, in immediate conjunction with the list of itemized cash advance items required by § 453.2(b)(5)(i)(B): “We charge you for our services in obtaining: (specify cash advance items),” if the funeral provider makes a charge upon, or receives and retains a rebate, commission or trade or volume discount upon a cash advance item.

**HISTORY:**

[49 FR 563, Jan. 5, 1984.; 59 FR 1613, Jan. 11, 1994].

**§ 453.4 Required purchase of funeral goods or funeral services.**

(a) **Casket for cremation provisions —**

(1) Unfair or deceptive acts or practices. In selling or offering to sell funeral \*1614 goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider, or a crematory, to require that a casket be purchased for direct cremation.

(2) Preventive requirement. To prevent this unfair or deceptive act or practice, funeral providers must make an alternative container available for direct cremations, if they arrange direct cremations.

(b) Other required purchases of funeral goods or funeral services —

(1) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services, it is an unfair or deceptive act or practice for a funeral provider to:

(i) Condition the furnishing of any funeral good or funeral service to a person arranging a funeral upon the purchase of any other funeral good or funeral service, except as required by law or as otherwise permitted by this part;

(ii) **Charge any fee as a condition to furnishing any funeral goods or funeral services to a person arranging a funeral, other than the fees for:**

(1) Services of funeral director and staff, permitted by § 453.2(b)(4)(iii)(C); (2) other funeral services and funeral goods selected by the purchaser; and (3) other funeral goods or services required to be purchased, as explained on the itemized statement in accordance with § 453.3(d)(2).

(2) Preventive requirements

(i) To prevent these unfair or deceptive acts or practices, funeral providers must:

(A) Place the following disclosure in the general price list, immediately above the prices required by § 453.2(b)(4) (ii) and (iii): “The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.” Provided, however, that if the charge for “services of funeral director and staff” cannot be declined by the purchaser, the statement shall include the sentence: “However, any funeral arrangements you select will include a charge for our basic services” between the second and third sentences of the statement specified above herein. The statement may include the phrase “and overhead” after the word “services” if the fee includes a charge for the recovery of unallocated funeral provider overhead;

(B) Place the following disclosure in the statement of funeral goods and services selected, required by § 453.2(b)(5)(i): “Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below.”

(ii) A funeral provider shall not violate this section by failing to comply with a request for a combination of goods or services which would be impossible, impractical, or excessively burdensome to provide.

**HISTORY:**

[47 FR 23399, Sept. 24, 1982; 59 FR 1613, Jan. 11, 1994.].

**§ 453.5 Services provided without prior approval.**

(a) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for any provider to embalm a deceased human body for a fee unless:

(1) State or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which the family might make; or

(2) Prior approval for embalming (expressly so described) has been obtained from a family member or other authorized person; or

(3) The funeral provider is unable to contact a family member or other authorized person after exercising due diligence, has no reason to believe the family does not want embalming performed, and obtains subsequent approval for embalming already performed (expressly so described). In seeking approval, the funeral provider must disclose that a fee will be charged if the family selects a funeral which requires embalming, such as a funeral with viewing, and that no fee will be charged if the family selects a service which does not require embalming, such as direct cremation or immediate burial.

(b) Preventive requirement. To prevent these unfair or deceptive acts or practices, funeral providers must include on the itemized statement of funeral goods and services selected, required by § 453.2(b)(5), the statement: "If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below."

**HISTORY:**

[47 FR 23399, Sept. 24, 1982; 59 FR 1614, Jan. 11, 1994.].

**§ 453.6 Retention of documents.**

To prevent the unfair or deceptive acts or practices specified in § 453.2 and § 453.3 of this rule, funeral providers must retain and make available for inspection by Commission officials true and accurate copies of the price lists specified in §§ 453.2(b) (2) through (4), as applicable, for at least one year after the date of their last distribution to customers, and a copy of each statement of funeral goods and services selected, as required by § 453.2(b)(5), for at least one year from the date of the arrangements conference.

**HISTORY:**

[47 FR 23399, Sept. 24, 1982; 59 FR 1614, Jan. 11, 1994.].

**§ 453.7 Comprehension of disclosures.**

To prevent the unfair or deceptive acts or practices specified in § 453.2 through § 453.5, funeral providers must make all disclosures required by those sections in a clear and conspicuous manner. Providers shall not include in the casket, outer burial container, and general price lists, required by §§ 453.2(b)(2)-(4), any statement or information that alters or contradicts the information required by this Part to be included in those lists.

**HISTORY:**

[47 FR 23399, Sept. 24, 1982; 59 FR 1614, Jan. 11, 1994.].

**§ 453.8 Declaration of intent.**

(a) Except as otherwise provided in § 453.2(a), it is a violation of this rule to engage in any unfair or deceptive acts or practices specified in this rule, or to fail to comply with any of the preventive requirements specified in this rule;

(b) The provisions of this rule are separate and severable from one another. If any provision is determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

(c) This rule shall not apply to the business of insurance or to acts in the conduct thereof.

**HISTORY:**

[49 FR 564, Jan. 5, 1984.; 59 FR 1614, Jan. 11, 1994.].

**§ 453.9 State exemptions.**

If, upon application to the Commission by an appropriate state agency, the Commission determines that:

- (a) There is a state requirement in effect which applies to any transaction to which this rule applies; and
- (b) That state requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this rule; then the Commission's rule will not be in effect in that state to the extent specified by the Commission in its determination, for as long as the State administers and enforces effectively the state requirement.

**HISTORY:**

[49 FR 564, Jan. 5, 1984.; 59 FR 1614, Jan. 11, 1994.].