



CEMETERY & FUNERAL
B U R E A U

CALIFORNIA CODE OF REGULATIONS

**Title 16. Professional and Vocational Regulations
Division 23. Cemetery and Funeral Bureau**

NOTICE

This document includes regulations of interest to professionals in the field of cemetery services.

This document does not contain changes made after March 1, 2016.

Please refer to the Bureau's website (www.cfb.ca.gov) for any proposed regulatory changes.

For a complete listing of the California Code of Regulations, visit the Office of Administrative Law's website at www.oal.ca.gov.

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS**DIVISION 23. CEMETERY AND FUNERAL BUREAU****Article 1. General****§§ 2300 – 2304****§ 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 – 2324****§ 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 four hundred dollars (\$400). An additional quarterly charge of eight dollars fifty cents (\$8.50) 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 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 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 four hundred dollars (\$400). An additional quarterly charge of eight dollars

fifty cents (\$8.50) for each cremation made during the preceding quarter shall be paid to the Bureau.

Note: Authority cited: Sections 9630 and 9765, Business and Professions Code. Reference cited: Sections 9765 and 9786, 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).

§ 2311. Filing Fee

(a) An initial filing fee of four hundred dollars (\$400) 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 four hundred dollars (\$400) 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).

Note: Authority cited: Sections 9630, 9717 and 9783, Business and Professions Code. Reference cited: Sections 9717 and 9783, 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).

§ 2312. Cemetery Broker Original License Fee

The cemetery broker original license fee shall be four hundred dollars (\$400).

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).*

§ 2313. Cemetery Broker Re-Examination Fee

The cemetery broker re-examination fee shall be one hundred dollars (\$100).

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).*

§ 2314. Cemetery Broker License Renewal Fee

The cemetery broker license renewal fee shall be three hundred dollars (\$300).

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).*

§ 2315. Cemetery Broker Multiple Corporate Officer or Partner License Renewal Fee

Pursuant to Sections 9754 and 9755 of the Business and Professions Code, the cemetery broker renewal license fee for a license issued to a second or additional corporate officer or partner of a partnership shall be one hundred dollars (\$100) for each license in addition to the first fee paid by the corporation or partnership.

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).*

§ 2316. Cemetery Broker Branch Office License Fee

The cemetery broker branch office license fee shall be one hundred dollars (\$100).

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).

§ 2317. Crematory Manager Examination, License, and Renewal Fee

(a) The crematory manager examination fee and reexamination fee is four hundred and fifty dollars (\$450.00).

(b) The crematory manager license fee is eighty dollars (\$80.00).

(c) The annual renewal fee for the crematory manager license is eighty dollars (\$80.00).

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).

§ 2317.1. Cemetery Manager Examination, License, and Renewal Fee

(a) The cemetery manager examination fee and reexamination fee is eight hundred dollars (\$800.00).

(b) The cemetery manager license fee is eighty dollars (\$80.00).

(c) The annual renewal fee for the cemetery manager license is eighty dollars (\$80.00).

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).

§ 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

The cemetery salesman license fee shall be thirty dollars (\$30).

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).

§ 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

The cemetery salesperson license renewal fee shall be twenty-five dollars (\$25).

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).

§ 2321. Change of Name or Address Fee

The fee for change of name or address on the records of the bureau shall be twenty-five dollars (\$25).

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).

§ 2322. Cemetery Salesperson Transfer Fee

The fee for transfer of a cemetery salesperson's license upon change of employer shall be twenty-five dollars (\$25).

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).

§ 2323. Duplicate License Fee

The fee for a duplicate license shall be twenty-five dollars (\$25).

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).

§ 2324. Reinstatement Fee

The fee for reinstatement of a cemetery broker's license or salesperson's license within a fiscal year shall be twenty-five dollars (\$25).

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).

Article 3. Applications and Licenses**§§ 2326 – 2333****§ 2326. Applications for Cemetery and Crematory Certificates of Authority**

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

(1) A certified copy of:

(A) Articles of incorporation.

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

(C) Permit to sell and issue securities.

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

(E) Land use or zoning permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) A good and substantial map of the proposed cemetery site (scale not less than one inch (1") to five hundred feet (500')) and surrounding area showing highways, access roads, etc., and area to be initially developed delineated thereon.

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

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

(1) A certified copy of:

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

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

(C) Land use or zoning permit.

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

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

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

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

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

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

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

(A) Fire resistant character.

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

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

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

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).

§ 2326.1. Managers

(a) Each cemetery for which a new certificate of authority is required shall be operated under the supervision of a managing officer qualified as such by the bureau.

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

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

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

§ 2326.2. Managing Officer Examination [Repealed]

Note: Authority cited: Sections 9630 and 9787, Business and Professions Code. Reference: Sections 9702.5, 9715, 9716, 9717 and 9787, 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. Amendment of NOTE filed 8-24-82; effective thirtieth day thereafter (Register 82, No. 35).
4. Order of Repeal filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

§ 2326.5. Approval to Share a Cemetery Manager

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

- (a) The license cemeteries are under common ownership;
- (b) The common owner has designated one cemetery as the main office. The main office is defined as a designated location registered with the Bureau where the principals of the licensed cemetery can be contacted;
- (c) The licensed cemeteries are within a 60 mile radius of the main office;

(d) Each licensed cemetery requesting permission from the Bureau to share one designated cemetery manager, shall make a written request on application Form 21A2 (10/03) to the Bureau and pay the fee for requesting to share a designated cemetery manager. An inspection may be scheduled and completed to ensure that the conditions set forth in this section have been satisfied.

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

(1) The Bureau shall inform an applicant requesting approval to share a cemetery manager, in writing, within 14 days of receipt whether the application is complete and acceptable for filing or is deficient and what specific information is required to complete the application.

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

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

(A) Minimum - 7 days.

(B) Median - 14 days.

(C) Maximum - 30 days.

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

§ 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 (12/11).

(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).

§ 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).

§ 2330. Substantial Relationship Criteria

For the purposes of denial, suspension or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a cemetery broker or salesperson if to a substantial degree it evidences present or potential unfitness of a cemetery broker or salesperson to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

- (a) Conviction of a crime involving fiscal dishonesty.
- (b) Any violation of the provisions of Chapter 19, Division 3 of the Code.

Note: Authority cited: Sections 481 and 9630, Business and Professions Code. Reference: Section 481, 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).

§ 2331. Criteria for Rehabilitation

(a) When considering the denial of a license under Section 480 of the Code, the bureau, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivisions (1) and (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a license on the ground that a cemetery broker or salesperson has been convicted of a crime, the bureau, in evaluating the rehabilitation of such person and his or her eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a license 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 subsection (a).

Note: Authority cited: Sections 482 and 9630, Business and Professions Code. Reference: Sections 480 and 482, 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).

§ 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 4. Signs, Contracts, Literature, Etc.

§§ 2336 – 2340

§ 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 Contracts

(a) Pursuant to Section 9784 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 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 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: Section 9630, Business and Professions Code. Reference: Section 9784, 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).

§ 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 – 2351

§ 2350. Endowment Care Fund Reports

The terminology of Section 9650(c) of the Code shall be deemed to require the certificate of the accountant or auditor preparing such statement and shall be deemed to have been complied with when prepared by a licensed independent certified public accountant or public accountant provided that such statements fully and accurately disclose the position of the endowment care fund and that such certificate does not contain disclaimers or qualifications such as to preclude the rendering of an independent opinion.

Note: Authority cited: Section 9630, Business and Professions Code. Reference: Section 9650, Business and Professions 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).

§ 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

§ 2370. Special Trusts

Trusts established for burial purposes pursuant to Section 8775 of the Health and Safety Code including cremation or other commodities or services furnished at the time of and in connection with such cremation 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: Section 9630, 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).

Article 7. Disciplinary Proceedings**§§ 2380 – 2381****§ 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 – 2388****§ 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

§ 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 joints 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).