



CEMETERY & FUNERAL
B U R E A U

CALIFORNIA CODE OF REGULATIONS

**Title 16. Professional and Vocational Regulations
Division 12. Cemetery and Funeral Bureau**

NOTICE

This document includes regulations of interest to professionals in the field of funeral 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 12. CEMETERY AND FUNERAL BUREAU****Article 1. General****§§ 1200 – 1203****§ 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 Location of Offices [Repealed]**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 Tenses, Gender, and Number [Repealed]*HISTORY*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 Directors**§§ 1204 – 1205****§ 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 – 1213

§ 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 – 1224****§ 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 prepared 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). Refined 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 – 1230

§ 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 License

§§ 1234 – 1239

§ 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 – 1246****§ 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 – 1253.6

§ 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

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed funeral establishment, licensed funeral director, or licensed embalmer if to a substantial degree it evidences present or potential unfitness of a licensed funeral establishment, licensed funeral director, or licensed embalmer to perform the functions authorized by his 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 12, Division 3 of the Business and Professions Code.

Note: Authority cited: Sections 482, 492 and 7606, 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).

§ 1253. Criteria for Rehabilitation

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

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

(b) 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 Business and Professions Code.

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

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

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

Note: Authority cited: Sections 488, 492 and 7606, 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).

§ 1253.5. Rehabilitation Criteria for Suspensions or Revocations

(a) When considering the suspension or revocation of a license on the ground that a licensed funeral establishment, licensed funeral director, or licensed embalmer 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.

(b) Petition for Reinstatement. 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 Section 1253 of this article.

Note: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 480, 7615, 7616, 7691, 7711, 7735, 7736, 7737 and 7738, 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).

§ 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 – 1259

§ 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

Pursuant to the provisions of Section 7729 of Division 3, Chapter 12, Article 8, of the Business and Professions Code, fees are hereby fixed according to the following schedule:

- (a) The application fee for a funeral director's license is two hundred dollars (\$200.00).
- (b) The application fee for a funeral establishment license is four hundred dollars (\$400.00).
- (c) The application fee for change of location of a funeral establishment's license is two hundred fifty dollars (\$250.00).
- (d) The application fee for permission to assign a funeral establishment's license is three hundred dollars (\$300.00).
- (e) The license renewal fee payable by a licensed funeral director is two hundred dollars (\$200.00). The fee for a delinquent renewal of a funeral director's license is three hundred dollars (\$300.00).
- (f) The license renewal fee payable by a licensed funeral establishment is four hundred dollars (\$400.00). The fee for a delinquent renewal of a funeral establishment license is six hundred dollars (\$600.00).
- (g) The application fee for an embalmers license and for the license examination is one hundred fifty dollars (\$150.00).
- (h) The renewal fee payable by a licensed embalmer is one hundred dollars (\$100.00). The fee for a delinquent renewal of an embalmer's license is one hundred fifty dollars (\$150.00).
- (i) The application fee for a certificate of registration as an apprentice embalmer is sixty dollars (\$60.00).
- (j) The fee for an application by a funeral establishment for approval to train apprentice embalmers and for renewal of that approval is one hundred dollars (\$100.00).
- (k) The application fee for a funeral director's examination is one hundred dollars (\$100.00).

(l) The fee for a timely filing of an individual report or a combined report on preneed trust funds, as specified, is two hundred dollars (\$200.00). The fee for a late filing of any report on preneed trust funds is three hundred dollars (\$300.00).

(m) The application fee for permission to change the name appearing on a funeral establishment's license is two hundred dollars (\$200.00). The fee for permission to change the name appearing on any other license or certificate is forty dollars (\$40.00).

(n) 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, is forty dollars (\$40.00).

(o) The fee for filing a report of a change of corporate officers, designated managing funeral director, or preneed trust fund trustees, is fifty dollars (\$50.00).

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).

§ 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 prorated 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 – 1277.5

§ 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. 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 Pre-Need Books, Accounts, Contracts, and Records

Each funeral establishment charged with the reporting of pre-need funds hereunder shall at all times maintain or cause the trustee of the pre-need trust to maintain in California and available for inspection by the bureau during reasonable working hours, complete financial records of all pre-need 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 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) A cash receipts journal which shall show each payment received and shall be totalled monthly.
- (d) A cash disbursement journal which will show each withdrawal for an investment in compliance with 1263 and each disbursement to the funeral establishment for a

serviced account or to the individual trustor on a cancelled account, and all withdrawals for documented expenses.

(e) 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.

(f) 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.

(g) A portfolio of all investments related to the trust funds.

(h) 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, Division 3, Chapter 12, Article 5.5 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.

(i) Records for cancelled accounts shall include but not be limited to:

(1) A record of all income earned and documented expenses taken including a revocation fee as stated in Section 7735, Division 3, Chapter 12, Article 9, of the Business and Professions Code.

(2) A copy of the final accounting to the family with the cancelled check or withdrawal slip showing the amount refunded to the trustor.

(j) All of the foregoing records shall be retained for a period of one (1) year after the account has been cancelled or serviced and audited by the bureau and compliance with all recommendations made and audit exceptions resolved or seven (7) years from the date of service or cancellation, 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).

§ 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

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 pre-need 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.

Note: Authority cited: Sections 7606 and 7740, Business and Professions Code. Reference: Sections 7737 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).

§ 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 pre-need contract or that it is a nonguaranteed pre-need 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).

§ 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. 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. 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).

Article 9. Continuing Education Requirements

§§ 1280 – 1291

§ 1280. Purpose and Scope [Repealed]

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

HISTORY

1. New article 9 (sections 1280-1291) and section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer of article 9 (sections 1280-1291) and repealer of section filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1281. Definitions [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1282. Continuing Education Committee [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1283. Minimum Continuing Education Requirements [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1284. Requirements for Recognized Providers [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1285. Course Approval for Recognized Providers [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1286. Audit of Providers and Courses [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1287. Courses from Non-Recognized Providers [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1288. Standards for Continuing Education Courses [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1289. Denial, Suspension, or Revocation of Registration [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1290. Audit and Sanctions for Noncompliance [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).

§ 1291. Processing Periods [Repealed]

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

HISTORY

1. New section filed 10-31-97; operative 11-30-97 (Register 97, No. 44).
2. Repealer filed 6-11-2014; operative 10-1-2014 (Register 2014, No. 24).