

DEPARTMENT OF CONSUMER AFFAIRS

TITLE 16. CEMETERY AND FUNERAL BUREAU

PROPOSED REGULATORY LANGUAGE
Crematory License, Change in Ownership

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
----------------	---

1. Amend Sections 2326 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326. Applications for Cemetery Certificate of Authority ~~and Crematory License~~

(a) Certificate of Authority. Applications for a certificate of authority to operate a cemetery shall be filed on bureau form 23-COA (rev. 01/23), Application for Certificate of Authority, which is hereby incorporated by reference, at the principal office of the bureau. In addition to the payment of the fees required by section 2311 of these rules, each application shall be accompanied by the following:

(1) A copy of:

(A) Articles of Incorporation, if a corporation, or Articles of Organization, if a limited liability company, certified by the Secretary of State.

(B) Statement of Information for the corporation or organization filed with the Secretary of State.

(C) Permit to sell and issue securities. If not applicable, submit a statement certifying that securities will not be sold or issued.

(D) Land use or zoning permit certified by the city or county for cemetery use.

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

(F) Deed to the property certified by the county recorder, contract of purchase or any other instrument which provides the applicant with merchantable title thereto.

(G) Endowment care trust agreement executed by the board of directors or limited liability company members of the cemetery authority.

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

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

(B) Statement of compensation received or to be received by the corporate officers or limited liability company members, directors and all sales agents and/or cemetery managers.

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

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

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

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

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

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

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

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

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

access roads, etc., and area to be initially developed delineated thereon. The map should not be submitted with the application. Maps shall be maintained by the cemetery and made available during inspections or upon request by the bureau.

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

(b) In addition to complying with the provisions listed above (all apply, except (a)(2)(C)(1)), a limited liability company applying for a certificate of authority must also include the following:

(1) A completed bureau form 23-LE (1/16), Bureau Licensed Employee, which is hereby incorporated by reference, for each employee issued a license by the bureau.

(2) Comply with one, or a combination, of the following:

(A) Maintain a policy or policies of insurance of not less than one million dollars (\$1,000,000) for up to five licensed employees plus an additional one hundred thousand dollars (\$100,000) for each licensed employee over five, not to exceed five million dollars (\$5,000,000) accompanied by bureau form 23-INS (1/16), Certification of Insurance Coverage, which is hereby incorporated by reference.

(B) Maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security of not less than one million dollars (\$1,000,000) for up to five licensed employees plus an additional one hundred thousand dollars (\$100,000) for each licensed employee over five, not to exceed five million dollars (\$5,000,000) accompanied by bureau form 23-INS (1/16), Certification of Insurance Coverage, which is hereby incorporated by reference.

(C) Unless the limited liability company has satisfied the provisions of (b)(2)(D) of this section, each member of a limited liability company automatically guarantees payment of the difference between the maximum amount of security required for the limited liability company, up to five million dollars (\$5,000,000), and the security otherwise provided in accordance with (b)(2)(A) and (b)(2)(B) of this section provided that the aggregate amount paid by all members under these guarantees shall not exceed the difference.

(D) Confirm a net worth equal to or exceeding ten million dollars (\$10,000,000) as of the most recently completed fiscal year accompanied by bureau form 23-NW (1/16), Certification of Net Worth, which is hereby incorporated by reference.

(3) Names and addresses of all limited liability company members accompanied by bureau form 16-CA (rev. 1/21), Certification Affidavit, which is hereby incorporated by reference, for each member.

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

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

~~(1) A certified copy of:~~

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

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

~~(C) Land use or zoning permit.~~

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

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

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

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

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

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

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

~~(A) Fire resistant character.~~

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

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

Note: Authority cited: Sections 7606 and ~~7712.5~~, Business and Professions Code.
Reference: Sections 7613.4, 7613.5, 7652.8, 7652.10, 7653, ~~7712.2, 7712.4 and 7712.5~~, Business and Professions Code; and Section 8738.1, Health and Safety Code.

Adopt Sections 2326.01 of Division 23 of Title 16 of the California Code of Regulations

§ 2326.01. Application for Initial Crematory License, or Assignment of an Existing Crematory License

(a) Applying for an initial crematory or an assignment of existing crematory license, shall be submitted on Bureau form 23-CR (New 1/24), Application for Initial Crematory License or Assignment of an Existing Crematory License, which is hereby incorporated by reference. The form shall be accompanied by the filing fee of \$750. Each application shall be accompanied by the following:

(1) Articles of Incorporation, if applicant is a corporation.

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

(3) Land use or zoning permit.

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

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

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

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

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

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

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

(A) Fire resistant character.

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

(b) In addition to the requirements in subdivision (a) of this section, the new owner requesting an assignment of an existing crematory license shall submit to the Bureau pursuant to Business and Professions Code section 7712.1 the following:

(1) The application to the Bureau at least 30 days before the change of ownership occurs. The assignment of an existing crematory license shall occur once the Bureau has approved the application.

(2) Copy of the final, dated and signed, sales agreement shall be submitted to the Bureau within 10-days of the final sale.

(3) Within 60 days from the date of the sales agreement the new owner must submit to the Bureau the local air pollution required permit to operate the crematory, the applicant shall file satisfactory proof of the permit issued.

Note: Authority cited: Sections 7606, 7712.1, and 7712.5, Business and Professions Code. Reference: Sections 7712.1, 7712.2, 7712.4, 7712.5, 7712.9, Business and Professions Code.