

Chapter 830 Mortuary and Cemetery Board

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DIVISION 1

PROCEDURAL RULES

830-001-0000
Model Rules of Procedure and Notice of Proposed Rulemaking

(1) The Attorney General's Uniform Model Rules of Procedure under the Administrative Procedures Act, which became effective January 1, 2008 are by this reference adopted as rules of administrative procedure of the Board and shall be controlling except as otherwise required by statute or rule.

(2) Prior to the adoption, amendment or repeal of any rule, the Mortuary and Cemetery Board shall give notice of the intended action:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 15 days before the effective date of the intended action;

(b) By mailing a copy of the notice to persons on the Mortuary and Cemetery Board's mailing list established pursuant to ORS 183.335(8);

(c) By mailing or furnishing a copy of the notice to the United Press International and Associated Press; and

(d) To licensees, certificate holders of the Board, State Medical Examiner, the Center for Health Statistics of the State Health Division, District Attorneys within the state, the Oregon Funeral Directors Association and the Cemetery Association of Oregon.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Mortuary Board.]

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320

Stats. Implemented: ORS 183.335 & 183.360

Hist.: FDB 15, f. & ef. 10-15-76; FDB 2-1979, f. & ef. 2-21-79; FDB 1-1980, f. & ef. 3-28-80; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09

DIVISION 11

GENERAL INFORMATION

830-011-0000

Definitions

(1) "At Need". As used in this chapter, means arrangements entered into after a death has occurred, "at the time of need".

(2) "Authorizing Agent(s)". The authorizing agent(s) is (are) the person(s) legally entitled to order the disposition of human remains and cremated remains.

(3) "Burial Vault". A burial vault is a receptacle designed to protect the casket from the intrusion of outside elements, the weight of the surrounding earth, and the weight of maintenance equipment.

(4) "Certificate of Authority". A Certificate of Authority is a certificate issued to an individual or corporation who is responsible for the operation of either a cemetery or crematory. If the cremato-

ry or cemetery is a corporation, the Certificate of Authority shall be issued to the corporation.

(5) "Cremated Remains". Cremated remains are the remaining ash and bone fragments after the act of cremation is completed.

(6) "Cremated Remains Container". As used in this chapter, a cremated remains container means any container in which processed cremated remains can be placed and closed [so as] to prevent leakage. At a minimum, this would be a plastic-lined cardboard container.

(7) "Cremation". Cremation is the technical heating process that reduces human remains to ash and bone fragments.

(8) "Cremation Chamber". A cremation chamber is the enclosed space in which the cremation process takes place.

(9) "Cremation Container". A cremation container is the container in which the human remains are placed in the cremation chamber for a cremation. The container shall meet all the requirements of the crematorium.

(10) "Crematory Authority". The crematory authority is the legal entity or the authorized representative of the legal entity who conducts the cremation.

(11) "Crematory or Crematorium". A crematory or crematorium is any person, partnership, or corporation with a Certificate of Authority to operate a cremation chamber.

(12) "Death Care Industry". As used in this chapter death care industry means the funeral service, cemetery, immediate disposition, and cremation industries.

(13) "Disinfectant Solution". A disinfectant solution is a chemical agent capable of destroying pathogens or their product when applied with sufficient time and concentration.

(14) "Disposition". Disposition is burial, entombment, burial at sea or cremation.

(15) "Embalmed". Human remains shall be considered embalmed when sufficient disinfectant solution or preservative fluid has been injected into the circulatory system and/or applied externally to render it not a hazard to public health.

(16) "Endowment Care Funds". Endowment care funds are principal amounts deposited from which the revenue on the principal is used for the care and maintenance of a cemetery.

(17) "Final Processing". Final Processing is the processing of cremated bone fragments to an unidentifiable dimension.

(18) "Grave Liner". A grave liner is a burial receptacle either in sectional or box form, built and designed to be installed in a grave to assist in preventing the ground from collapsing.

(19) "Holder of a Certificate of Registration". As used in this chapter a "Holder of a Certificate of Registration" means the same as "Certified Provider" as defined in ORS 97.923(2).

(20) "Holding Room". A holding room is a suitable room constructed in accordance with OAR 830-040-0020(2), (3), (4), (5), and (6) which licensed funeral establishments use for the care, storage, or holding of human remains prior to effecting disposition. This room shall be of sufficient size to accommodate at least one table for a casketed remains and attendant that may be used by the funeral establishment to care for or repair remains in those facilities which do not offer on premises embalmings. This room would be other than a chapel, viewing or visitation room, office supply room, closet or other room normally open to the public.

(21) "Human Remains". Human remains means a dead human body.

(22) "Identification Viewing". Identification viewing means viewing the remains for the purpose of identifying the remains, regardless of whether the remains have been washed or otherwise prepared.

(23) "Identifying Metal Disc". An identifying metal disc is a metal disc, approximately one inch in diameter with a number assigned by the State Registrar's office, each with a different number, for the purpose of accompanying dead human remains through the disposition process and to serve as a means of permanent identification of those remains.

(24) "Intern Apprentice". An intern apprentice is any student enrolled in an accredited funeral service education program who is serving his/her three-month internship under the supervision of a

combination-licensed funeral service practitioner/embalmer at a participating funeral establishment.

(25) "Licensed Facility". A licensed facility is any licensed business governed by ORS Chapter 692, either cemetery, crematory, immediate disposition company or funeral establishment.

(26) "Licensee". Licensee means any funeral establishment, immediate disposition company, funeral service practitioner, embalmer, apprentice, cemetery authority or crematory authority licensed under ORS Chapter 692 and any preneed salesperson registered under ORS 97.931.

(27) "Minimum Preparation of Human Remains". As used in this rule minimum preparation of human remains means the human remains are completely washed as defined in this section.

(28) "Offensive Treatment of Human Remains". As used in this rule and in ORS Chapter 692, offensive treatment of human remains is treatment offensive to the generally accepted standards of the community.

(29) "Prearrangement". As used in this chapter, means sales or agreements for undelivered goods or services to be delivered at an unspecified date in the future, entered into before a death has occurred, i.e., "before the time of need". Prearrangements by this definition do not include the sale of interment rights purchased before a death when the property is developed.

(30) "Preneed Funds". Preneed funds are specified amounts paid for goods and/or services that are sold in advance of need but not delivered.

(31) "Preneed salesperson". As used in these rules, "preneed salesperson" means an individual registered under ORS 97.931 and employed by a certified provider to engage in the sale of prearrangement or preconstruction sales contracts on behalf of the certified provider.

(32) "Preparation Room". As used in these rules, preparation room means the same as embalming facility as used in ORS Chapter 692.

(33) "Principal". Principal means those persons who have controlling authority over the licensed facility, including but not limited to:

(a) Managers or other persons who have decision-making authority and whose primary duties include control over the operation of the licensed facility;

(b) Officers or directors who have some degree of responsibility for the operation of the licensed facility;

(c) Stock holders or corporations who own or control ten percent or more of the licensed facility by owning or controlling ten percent or more of the voting stock; and

(d) Partners.

(34) "Processed Cremated Remains". As used in this chapter, processed cremated remains are the result of pulverization, where the residual from the cremation process is cleaned leaving bone fragments reduced to unidentifiable dimensions.

(35) "Public Viewing". Public viewing means the human remains have, at minimum, been washed, as defined in this section, and the remains are placed in a viewing room, church, chapel or other suitable place for viewing of the remains.

(36) "Receptacle". As used in this chapter, a receptacle means a rigid container for human remains.

(37) "Refrigeration Unit". As used in this chapter, a refrigeration unit is one used in licensed facilities to store dead human remains that meet commercial standards.

(38) "Registration". As used in this chapter, registration may refer to the registration of a cemetery that does not fall under the category of "Operating Cemetery" as defined in ORS 692.010(7) or it may refer to the "registration" of preneed salespersons. Registration of non-operating cemeteries, and preneed salespersons is required for compliance with Oregon Laws.

(39) "Sanitary Condition". Sanitary means clean from dirt, foreign particles, blood stains, offensive odors, insects, etc.

(40) "Sealed Casket". A sealed casket is one that is designed by a manufacturer to be sealed prior to final disposition.

(41) "Solicitation". Solicitation is defined as actively endeavoring to obtain business or clientele through means such as telephone or personal contact.

(42) "Visitation". Visitation means a specific time and place to gather where the human remains are present, except for graveside service.

(43) "Washed". A human remains shall be considered washed and brought to a sanitary condition when the entire surface of the human remains has been bathed with a disinfectant solution and the mouth, nose, and other body orifices have been washed and when necessary packed with cotton saturated with a disinfectant solution.

Stat. Auth.: ORS 128.414 & 692.320

Stats. Implemented: ORS 692.320 & 128.414

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1988, f. & cert. ef. 2-10-88; MCB 1-1989, f. & cert. ef. 2-6-89; Renumbered from 830-030-0010(1)(a) - (k) & 830-030-0020; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2001(Temp), f. 12-12-01, cert. ef. 1-1-02 thru 6-29-02; MCB 1-2002, f. 5-30-02, cert. ef. 6-30-02; MCB 1-2009, f. & cert. ef. 7-1-09

830-011-0010

Employees, Meetings, Officers of the Board

(1) The Board shall employ an executive director, office manager, licensing specialist, investigator, and inspector to maintain the office of the Board, answer correspondence, and perform those duties necessary in carrying out the provisions of the law and of these rules. The office of the Board shall be such place as is designated by the Board.

(2) The Board shall meet at least six times per year, at a date, time, and place determined by the Board. Special meetings may be called by the president as deemed applicable.

(3) The Board, at its regular meeting in January of each year, shall elect from its members a president, a vice-president, and a secretary-treasurer to serve until the next election. Special elections may be held at the discretion of the Board. The president, or, in his absence, the vice-president, shall preside at all meetings, appoint all committees, and perform all functions incidental to the president of the Board.

(4) The executive director shall act under instruction of the president of the Board, and in his/her absence the vice-president and shall be responsible for supervising and monitoring the activities of the Board's office and staff. The executive director is authorized by the Board to sign correspondence, legal documents and other necessary papers to carry out Board mandates.

(5) No individual member of the Board or any of their employees may be sued for doing or omitting to do any act in the performance of their duties as prescribed by ORS 692.180.

Stat. Auth.: ORS 183.341, 692.300, 692.310 & 692.320

Stats. Implemented: ORS 183.341, 692.300, 692.310 & 692.320

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; FDB 16, f. & ef. 6-30-77; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0005; MCB 2-1988, f. & cert. ef. 9-9-88; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97

830-011-0020

Apprenticeship — Generally

(1) Apprenticeship for embalmer, funeral service practitioner, or intern apprentice must be served under persons licensed and working in Oregon who have been licensed for at least one year. A funeral service practitioner may supervise only one apprentice at a time and an embalmer may supervise only one apprentice at a time. (The only exception to this rule is that an embalmer may supervise up to three intern apprentices from an accredited funeral service education provider in addition to an apprentice embalmer.) A person who holds both a funeral service practitioner license and an embalmer license may supervise an apprentice funeral service practitioner and an apprentice embalmer. The licensee who supervises an apprentice must be working and located in the same licensed facility as the apprentice he/she is supervising.

(2) Apprentice embalmers must assist in the preparation of at least 45 human remains during the apprenticeship period under the personal supervision of a licensed embalmer. A record showing the name of the deceased, date, and place of death, and the date of embalming shall be kept and furnished to the Board upon request.

(3) Apprentice embalmers must work a minimum of at least thirty hours per week and at least three days per week, excluding up to 30 days of vacation time per year.

(4) Apprentice funeral service practitioners must work a minimum of 30 hours per week during normal business hours, excluding 30 days of vacation leave per year, and must assist in the planning of at least 25 funerals or dispositions per year through some form of direct contact with the family or representative of the deceased. Apprentice funeral service practitioners may not be accredited for time served in their funeral service practitioner apprenticeship while being enrolled in a full-time funeral service education program. For the purpose of this chapter, full-time is considered 12 or more credit hours per quarter. If the apprentice is enrolled in 11 or less credit hours per quarter, he/she will be considered a part-time student and could qualify for a funeral service practitioner apprenticeship providing he/she can meet the minimum requirements set forth above. Apprentice funeral service practitioners who are planning to become part-time students shall submit a letter to the Board clearly explaining their ability to attend classes and still meet the minimum requirements set forth above. Each applicant shall be approved individually based on the submission of all appropriate paperwork, fees and letters of explanation. No credit will be granted for apprenticeship time served unless prior approval by the Board has been granted. A log book shall be kept, on the premises, showing all arrangements made or participated in by the apprentice and be available upon request. The log book shall be retained for a period of one year after completion of the apprenticeship and shall include the following:

- (a) Name of deceased;
- (b) Date and place of death;
- (c) Date arrangements were made;
- (d) Apprentice participation with family; and
- (e) Number of days and hours worked per week.

(5) Intern apprentices shall serve their apprenticeships in accordance with the internship guidelines established by an accredited funeral service education program. A copy of the guidelines is available from the Board upon request. Intern apprentices are only required to intern at a funeral home for 15 hours per week and may acquire half credit for the three-month period toward the twelve-month licensing requirement for embalmer toward licensing. If the intern apprentice is also serving an embalmer apprenticeship and is meeting the thirty hour a week requirement set forth in section (3) of this rule then full credit shall accrue toward completion of the embalmer apprenticeship. If the intern is performing the functions of an intern funeral service practitioner in addition to an intern apprentice then the apprentice may also receive half-credit for the three-month period toward the 12-month requirement for a funeral service practitioner license.

(6) Applicants for an apprentice certificate shall make application in accordance with ORS Chapter 692. The application must be accompanied by the fee prescribed by OAR 830-020-0040, a certified copy of the applicant's birth certificate, and satisfactory proof of high school graduation or equivalency. If an applicant for an apprentice certificate does not have a high school diploma, he/she must present satisfactory evidence that he/she possesses the equivalent of a high school education received in some private, public, or trade school, or he/she must successfully pass the high school equivalency test (General Education Development Test) given by the local high school, or some similar equivalency test conducted by a similar agency. Prior to becoming licensed as a funeral service practitioner, apprentices shall provide a certified copy of a transcript from a school accredited by an Association of Schools and Colleges demonstrating completion of an Associate's degree or higher degree. Prior to becoming licensed as an embalmer, apprentices shall provide proof of completion of an accredited course of funeral service education.

(7) The effective date of the apprenticeship shall be the date the completed application, fee, and the required certificates are received and validated in the office of the Board. A letter will be sent notifying the apprentice of the status of his/her apprenticeship.

(8) The certificate of apprenticeship shall be issued to the applicant as an apprentice to a specified licensee. If the apprentice changes

establishments or person to whom apprenticed, he/she shall file a request for approval of transfer with the Board immediately. A certificate shall be reissued upon payment of an administrative charge. When an apprentice ceases employment at the supervisor's facility, the apprenticeship certificate shall become null and void. It is the responsibility of the supervisor to notify the Board's office of any termination in apprenticeship.

(9) Apprentice funeral service practitioner and embalmer certificates shall not be granted to any person for a longer period than 48 aggregate months. When an apprentice has completed his/her apprenticeship, he/she will no longer be licensed as an apprentice, but must qualify either as a licensed embalmer or licensed funeral service practitioner.

(10) If a funeral service practitioner's apprentice makes any arrangements for a deceased person the licensed funeral service practitioner supervising the apprentice is responsible for any arrangements made by the apprentice.

(11) An applicant for Oregon funeral service practitioner or embalmer licensure shall be deemed to have satisfied the respective apprenticeship requirement upon submitting proof satisfactory to the Board that the person has practiced, respectively, as a licensed funeral service practitioner or embalmer:

- (a) For three years of the past five years; or
- (b) For a total of ten years.

(12) Embalmer applicants who meet the requirements set forth in section (11) of this rule, shall be required to demonstrate competency by way of a practical examination at a time and place designated by the Board.

(13) Funeral Service Practitioner applicants who meet the requirements set forth in section (11) of this rule shall be required to successfully complete a written examination and receive a score of not less than 75 percent, based on the total number of questions.

Stat. Auth.: ORS 692.160 & 692.320
 Stats. Implemented: ORS 692.045, 692.070, 692.105, 692.130 & 692.190
 Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0050; MCB 2-1988, f. & cert. ef. 9-9-88; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1992, f. & cert. ef. 2-11-92; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09

**830-011-0030
 Leave of Absence from Apprenticeship**

(1) Leaves of absence from apprenticeship may be granted by the Board in accordance with ORS Chapter 692. Application for leave of absence shall be submitted on a form provided by the Board.

(2) Time spent in embalming college by an apprentice shall not be counted as part of the twelve months leave of absence which may be approved by the Board. No request for leave of absence is necessary when an apprentice enters embalming college. The apprentice shall, however, notify the Board of the name of the college he is attending and the date of his entry in college.

(3) If an apprentice enters military service of the United States, he shall notify the Board of the date of his entry into service. Upon release from military service, he shall notify the Board. If he is resuming his apprenticeship immediately, this fact must be certified to by the funeral service practitioner or embalmer under whom he is apprenticing:

(a) If an apprentice resumes his apprenticeship within one year of his release from military service, the Board may grant him full credit for times served on his apprenticeship prior to entry into the military service; and

(b) An apprentice returning from military leave who resumes his apprenticeship within six months need not request a leave of absence to cover the time between discharge from service and return to apprenticeship. However, an apprentice returning from military leave who does not intend to resume his apprenticeship within six months should request an official leave of absence in order to insure receiving credit for time previously served.

Stat. Auth.: ORS 692.320
 Stats. Implemented: ORS 692.190
 Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; Renumbered from 830-010-0055

**830-011-0040
 Completion of Funeral Service Practitioner and Embalmer Apprenticeship and Examination**

(1) A funeral service practitioner apprenticeship shall be completed within 48 aggregate months. The individual must successfully complete practical experience as a funeral service practitioner's apprentice under ORS 692.190.

(2) An embalmer apprenticeship shall be completed within 48 aggregate months, excluding time lost as provided in ORS 692.190(7). Extensions of the 48 aggregate month period for completion of an embalmer apprenticeship may be granted by the Mortuary and Cemetery Board due to extenuating circumstances beyond the control of the apprentice. The embalmer apprentice shall submit written evidence of graduation from an accredited program of funeral service education. An embalmer apprentice may either take the Oregon embalmer examination or he may submit to the Board proof of passing the National Board Examination written by the Conference of Funeral Service Examining Boards of the United States, Inc. in lieu of the Oregon embalmer examination. In either case an average score of at least 75 percent as described in OAR 830-020-0000(2)(b) will be required for passing.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320
 Stats. Implemented: ORS 692.105, 692.045 & 692.190
 Hist.: FDB 1-1978, f. & ef. 6-30-78; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0060; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09

**830-011-0050
 Background Investigation Required Prior to Oregon Licensure**

(1) All applicants for certificate of apprenticeship, reciprocal licensure, preneed salespersons registration, endowment care cemetery salespersons registration, funeral establishment license or certificate of authority to operate a cemetery or crematory and principals of licensed facilities must submit to a background investigation. The background investigation may include, but not be limited to, information solicited from the Law Enforcement Data Systems, Corporations Commissions, Department of Motor Vehicles, other State agencies, personal references, former employers, credit checks, and when applicable, information solicited from the Secretary of State's Office, Division of Audits on endowment care, prearrangement and preconstruction sales funds. If the principal is a corporation, the Board may perform background investigations on the principals of that corporation. The Board may require the applicant or licensee to furnish any information necessary to perform a background investigation.

(2) The Board may deny, suspend or refuse to issue or renew a license or certificate when conditions exist in relation to any principal of a licensed facility which constitute grounds for refusing to issue or renew a license or certificate or for suspension of a license.

Stat. Auth.: ORS 692.320
 Stats. Implemented: ORS 692.025
 Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1988, f. & cert. ef. 2-10-88; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97

**830-011-0070
 Registration of Preneed Salespersons and Endowment Care Cemetery Salespersons**

(1) An individual may not engage in prearrangement or preconstruction (preneed) sales under ORS 97.923 to 97.949 unless the individual is registered as a "preneed salesperson" with the State Mortuary and Cemetery Board. Individuals who are currently licensed as a funeral service practitioner or embalmer or certificated as an apprentice funeral service practitioner or apprentice embalmer need not register separately to sell preneed.

(2) Applicants for registration as a "preneed salesperson" must apply on a form provided by the Board, pay the preneed salesperson fees set forth in OAR 830-020-0040 and submit to a background investigation. The background investigation may include but is not limited to information solicited from the Department of State Police, Law Enforcement Data System, Oregon Department of Motor Vehi-

cles, other government agencies including local law enforcement agencies, the courts and prior employers.

(3) Endowment care cemetery salespersons engaging in prearrangement or preconstruction sales must comply with all the requirements set forth in this section.

(4) A certificate of registration will be issued to an approved preneed salesperson applicant. An applicant may not make preneed sales or engage in preneed sales activity, including but not limited to marketing and participating in sales presentations, until a certificate of registration has been issued to the applicant by the Board. It is the responsibility of the salesperson to keep the Board's office advised (in writing) of any address changes within 30 days of the change.

(5) All preneed salesperson certificates of registration will expire on March 1 in even-numbered years unless renewed as provided in this section.

(6) On or before December 31 of each odd numbered year, the Board will mail to each registered preneed salesperson a form containing notice that the renewal fee is due and payable. The renewal form will be mailed to the most current address filed with the Board by the preneed salesperson. If the renewal form is not returned and the renewal fee is not paid by the renewal date the certificate of registration will lapse.

(7) Upon lapse of a preneed salesperson certificate of registration, the Board will send notice of the lapse by registered or certified mail to the most current address filed with the Board by the preneed salesperson.

(8) The Board may reinstate a certificate of registration if the preneed salesperson applies for reinstatement on a form provided by the Board not later than the 90th day after the lapse and pays the renewal fee as well as the reinstatement fee established in OAR 830-020-0040.

Stat. Auth.: ORS 128.414
 Stats. Implemented: ORS 128.414
 Hist.: MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-2001(Temp), f. 12-12-01, cert. ef. 1-1-02 thru 6-29-02; MCB 1-2002, f. 5-30-02, cert. ef. 6-30-02

**830-011-0080
 Grounds for Civil Penalty, Revocation, Suspension or Refusal to Issue or Renew a Preneed Salespersons Registration**

(1) In accordance with ORS 97.933(5), the Holder of a Certificate of Registration is responsible for the conduct of their preneed salespersons. Therefore, the Board may take disciplinary action against a licensee that is the Holder of the Certificate of Registration for the misconduct of their preneed salespersons. It is the responsibility of the Holder of the Certificate of Registration to insure that sound sales and business practices are used in the training and supervision of their preneed salespersons.

(2) Upon complaint or upon its own motion, the Board may investigate any complaint concerning a preneed salesperson, a preneed salesperson applicant or an individual engaged in preneed sales activity without registration. For any of the causes described in ORS 692.180(1) or OAR 830-050-0050, or upon a determination that a preneed salesperson, applicant or unregistered individual has not complied with the provisions of ORS 97.923 to 97.949 or Chapter 692 or any rules adopted thereunder, the Board may impose a civil penalty of up to \$1000 per violation or suspend, revoke or refuse to issue or renew a registration.

Stat. Auth.: ORS 128.414 & 692.320
 Stats. Implemented: ORS 128.414
 Hist.: MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2001(Temp), f. 12-12-01, cert. ef. 1-1-02 thru 6-29-02; MCB 1-2002, f. 5-30-02, cert. ef. 6-30-02

DIVISION 20

EXAMINATION AND LICENSURE

**830-020-0000
 Applications and Examinations for Funeral Service Practitioner and Embalmer Licenses**

(1) All applications for funeral service practitioner and embalmer licenses by examination, accompanied by the examination

fee prescribed by ORS Chapter 692, must be received in the office of the Board at least 30 days before the examination is held, or be postmarked before midnight of that date.

(2) The examinations for a funeral service practitioner and embalmer shall be given at least twice each year:

(a) Applicants for a funeral service practitioner license shall be required to successfully complete a written examination and receive a score of not less than 75 percent, based on the total number of questions;

(b) Applicants for an embalmer's license shall be required to successfully complete a written examination that will include two sections, funeral service arts and funeral service sciences, and must receive an average score of at least 75 percent on the sections with not less than 70 percent on either of these two sections; and

(c) If the Board deems it necessary, the applicant for an embalmer's license may also be required to pass an examination testing his qualifications as to the practical application of his knowledge.

(3) Upon successful completion of the funeral service practitioner's examination, an appropriate license for the current year will be issued to the examinee after fulfilling the apprenticeship and upon payment of the annual license fee prescribed by ORS Chapter 692. An applicant for an embalmer's license may be examined by the Board after first providing evidence of graduation from a funeral service program accredited by the American Board of Funeral Service Education, but shall not receive an embalmer's license until he has fulfilled his apprenticeship and paid the required fee as prescribed in ORS Chapter 692.

(4) If an applicant for a funeral service practitioner's or embalmer's license fails to satisfactorily complete the examination, he may retake the examination the next time it is given upon payment of the full examination fee. Such fee must be received in the office of the Board at least 30 days before the examination is given.

(5) The examination fee shall not be returned to an examinee once he takes the examination.

(6) Test results will be mailed to examinees within 30 days after completion of the examination. Exams are not reviewable by examinee, pursuant to the Public Records Act, ORS Chapter 192.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320
 Stats. Implemented: ORS 692.045, 692.070, 692.105, 692.130, 692.140 & 692.320
 Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0100; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1998, f. & cert. ef. 6-22-98

**830-020-0010
 License Fee Due After Examination**

A license fee which is not received at the office of the Board within 30 days following receipt of notice of successful completion of the examination and completion of the apprenticeship for funeral service practitioner or embalmer, shall be considered delinquent and shall be subject to the reinstatement provisions of ORS 692.170 for lapsed licenses.

Stat. Auth.: ORS 692.320
 Stats. Implemented: ORS 692.148 & 692.160
 Hist.: FDB 1-1978, f. & ef. 6-30-78; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0101; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

**830-020-0015
 Disaster Mutual Aid Agreement**

In instances of a State emergency or disaster, it is the intention of the Oregon State Mortuary and Cemetery Board to allow funeral service practitioners and embalmers similarly licensed in other states, who are members of a disaster mortuary team and volunteering to appropriately care for deceased victims to practice in Oregon until the disaster or emergency has subsided. Individual volunteers shall be a member of a "Disaster Mortuary Team" authorized by local or federal authorities to provide such services. Only funeral service practitioners and/or embalmers licensed in Oregon shall sign death certificates.

Stat. Auth.: ORS 183.341 & 692.320
 Stats. Implemented: ORS 692.320
 Hist.: MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

830-020-0020

Funeral Service Practitioner and Embalmer Licenses: Military Leave

(1) Funeral service practitioners and embalmers shall be licensed only after compliance with ORS Chapter 692, and rules adopted thereunder. Licenses for funeral service practitioner and embalmer will not be issued or renewed unless assessed civil penalties have been paid.

(2) A license issued pursuant to ORS Chapter 692 shall not be transferable.

(3) The Board shall publish biennially, for distribution to licensees and other persons whom the Board may from time to time designate, a list of the officially licensed funeral establishments, funeral service practitioners, and embalmers.

(4) A person licensed under ORS Chapter 692 shall not be required to renew his/her individual funeral service practitioner or embalmer license while in active military service unless the person is required by that branch of the military service to maintain an active license from the state in which he/she is licensed in order to perform those services for that branch of the service. Such person shall notify the Board in writing of the date he/she will begin active military duty. The Board will not require this person to pay renewal licensing fees until completion of military duty. After release from active duty under honorable conditions, this person shall notify the Board in writing within 60 days of such discharge and shall be restored to former status. No fees will be requested until the following renewal period.

Stat. Auth.: ORS 692.320
 Stats. Implemented: ORS 692.190
 Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0105; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

830-020-0030

Reciprocal Licensure

(1) An applicant for reciprocal licensure shall apply to the Board on a form provided by the Board. The application shall be accompanied by the following:

- (a) The reciprocal fee as prescribed by OAR 830-020-0040;
- (b) A certified copy of the applicant's birth certificate;
- (c) A certified copy of transcripts from a school accredited by an Association of Schools and Colleges demonstrating completion of an Associate's degree or higher degree (for funeral service practitioner licensure) or proof of passing an accredited course of funeral service education (for embalmer licensure);

(d) A certificate from the state(s) the applicant is licensed in which includes: Length of apprenticeship, examination score, date licensed, status of license at the present time, and whether the applicant's license has ever been suspended or revoked or other disciplinary action taken;

(e) Proof that the applicant is licensed and has practiced, respectively, as a funeral service practitioner or an embalmer in another state for three of the past five years immediately preceding the respective application date; and

(f) An authorization signed by the applicant for the Board to perform a thorough background investigation as described in ORS 692.025(8).

(2) An applicant for reciprocal funeral service practitioner license shall be required to pass the Board's funeral service practitioner examination as a means of providing satisfactory proof to the Board that the applicant has the requisite qualifications for licensing as a funeral service practitioner in this state. The examination shall include Oregon and federal laws, rules and regulations relating to the care, preparation, disposition and transportation of human remains and to survivor death benefits. Reciprocal applicants for funeral service practitioner license shall be required to receive a score of not less than 75 percent, based on the total number of questions, in order to pass the examination. Reciprocal applicants shall be eligible to take the examination at the regularly scheduled examination dates if their applications are received at least 30 days prior to the examination date.

(3) Applicants for reciprocal embalmer licensure shall be required to show evidence satisfactory to the Board that the applicant has successfully passed the National Board Examination as administered by the Conference of Funeral Service Examining Boards or an equivalent examination written by the Conference of Funeral Service Examining Boards that shall include two sections, funeral service arts and funeral service sciences, and must receive an average score of at least 75 percent on the sections with not less than 70 percent on either of these two sections.

(4) At no time shall a license be issued to a reciprocal applicant before a complete background check has been performed and Board approval has been received.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320
 Stats. Implemented: ORS 692.140
 Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09

830-020-0040

License, Certificate and Registration Fees

(1) Initial application fees:

(a) Funeral establishment, immediate disposition company, crematory or cemetery that performs more than five interments per year — \$150 (includes first principal) plus \$50 for each additional principal;

(b) Cemetery that performs five or fewer interments annually — \$100 (includes first principal) plus \$50 for each additional principal;

(c) Change of principal — \$50 per licensed facility;

(d) Apprentice funeral service practitioner or apprentice embalmer — \$50;

(e) Reciprocal funeral service practitioner or reciprocal embalmer — \$160;

(f) Intern Apprentice — \$25;

(g) Preneed Salesperson — \$150;

(h) Certificate of Removal Registration — \$30.

(2) Renewal application fees:

(a) Funeral establishment or immediate disposition company — \$350 per year, payable biennially;

(b) Crematory — \$100 per year plus \$2 per cremation performed during the two calendar years preceding the year in which the current license expires, payable biennially;

(c) Cemetery — \$4 per interment performed during the two calendar years preceding the year in which the current license expires up to a maximum of 150 interments or \$600 per year, payable biennially; (Cemeteries with ten or fewer interments biennially are not required to pay a renewal fee in accordance with ORS 692.275.)

(d) Funeral service practitioner — \$80 per year, payable biennially;

(e) Embalmer — \$80 per year, payable biennially;

(f) Combination funeral service practitioner/embalmer — \$160 per year, payable biennially;

(g) Apprentice funeral service practitioner — \$25 per year, payable annually;

(h) Apprentice embalmer — \$25 per year, payable annually;

(i) Preneed salesperson — \$25 per year, payable biennially.

(3) Exam fees:

(a) Funeral service practitioner exam — \$100;

(b) Embalmer exam (written or practical) — \$130 to \$400 (depending on the cost to the Board).

(4) License, certificate and registration reissue fees:

(a) Transfer of apprenticeship, replacement license, name change or manager change — \$25;

(b) Licensed facility location change — \$250.

(5) Reinstatement of lapsed license, certificate or registration — \$50 each.

(6) Funeral service practitioners, embalmers and preneed salespersons shall renew their licenses on even numbered years. Funeral establishments, immediate disposition companies, cemeteries, and crematoriums shall renew on odd numbered years.

(7) Fees paid under this section are not refundable or transferable.

Stat. Auth.: ORS 692.160, 692.320 & 97.931

Stats. Implemented: ORS 692.160 & 97.931
 Hist.: SMB 1-1984, f. & ef. 10-22-84; MCB 1-1985(Temp), f. & ef. 7-3-85; MCB 2-1985(Temp), f. & ef. 11-5-85; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0110; MCB 2-1989(Temp), f. 10-2-89, cert. ef. 11-1-89; MCB 3-1989, f. 12-4-89, cert. ef. 12-1-89; MCB 1-1992, f. & cert. ef. 2-11-92; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 3-1993, f. 10-28-93, cert. ef. 11-1-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2001(Temp), f. 12-12-01, cert. ef. 1-1-02 thru 6-29-02; MCB 1-2002, f. 5-30-02, cert. ef. 6-30-02; MCB 1-2004, f. 9-30-04, cert. ef. 11-1-04

830-020-0050
Administrative Fees

- (1) The Mortuary and Cemetery Board may charge a fee reasonably calculated to reimburse the agency for costs of providing and conveying copies of public records.
- (2) All fees and charges must be paid before public records will be available for inspection or copies provided.
- (3) The Board establishes the following fees:
- (a) \$60 per hour fee to obtain the requested documents (prorated with a \$15 minimum);
 - (b) \$1 for the first page and \$0.25 for each additional page;
 - (c) \$75 per set of computer-generated lists on paper;
 - (d) \$80 per set of computer-generated lists on peel-n-stick labels;
 - (e) \$10 per copy of individual Board meeting minutes;
 - (f) \$10 each for cassette tape recordings;
 - (g) A fee to cover the printing and postage for a copy of the Board's Directory of Licensees; and
 - (h) \$10 each for Certificates issued by the Board.
- Stat. Auth.: ORS 692.160 & 692.320
 Stats. Implemented: ORS 692.160
 Hist.: MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97

DIVISION 30

**DUTIES OF FUNERAL SERVICE PRACTITIONER
 CREMATORY AUTHORITY — CEMETERY AUTHORITY**

830-030-0000
In General

- (1) No licensee, operator of a licensed facility, or their agent shall interfere with another licensee, operator of a licensed facility, or their agent who has been legally called to take care of human remains, or perform services relating to the disposition of human remains. The choice of licensed funeral homes, cemeteries, crematories or immediate disposition companies, or licensed person shall be left entirely to the person with the legal right to control final disposition.
- (2) It shall be the responsibility of the funeral service practitioner to prepare a certificate of death and file the same with the vital statistics local registrar in the county where the death occurred.
- (3) It shall be the responsibility of the funeral service practitioner to see that an identifying metal disc (with a number assigned by the State Registrar's Office) is attached to each receptacle containing human remains. When remains are to be cremated, the identifying metal disc shall be secured to the top of the head end of the casket or alternative container. When remains are going to be buried or entombed, the identifying metal disc shall be placed on the back side of the head end of the casket behind the handle. If there are no handles, the identifying metal disc should be attached in the same general vicinity. The number on the identifying metal disc shall be written on the certificate of death and final disposition permit by the responsible funeral service practitioner.
- (4) It shall be the responsibility of the Crematory Authority to see that the identifying metal disc shall accompany remains through the cremation process.
- (5) It shall be the responsibility of the Cemetery Authority or Crematory Authority to see that the identifying metal disc is properly secured to each receptacle containing human remains when remains are delivered to the Cemetery Authority or Crematory Authority and that the number on the identifying metal disc is the

number recorded on the final disposition permit. The Cemetery Authority or Crematory Authority shall sign the final disposition permit verifying this fact prior to accepting the remains. At no time shall the Cemetery Authority or Crematory Authority accept remains without an identifying metal disc unless death occurred in a state other than Oregon.

(6) In the case of scattering of cremated remains by a licensee, the identifying metal disc shall be made a part of the licensee's permanent record.

(7) It shall be the responsibility of the funeral establishment licensee or person acting as such handling the disposition of human remains, to pay the death certificate filing fee as required in ORS 432.312(1). This fee shall be paid within 30 days after the billing, and in no case, longer than 90 days after the billing. Failure to pay death certificate filing fees shall be cause for disciplinary action by the Board.

(8) It shall be the responsibility of the funeral establishment licensee, immediate disposition company, Cemetery Authority, and Crematory Authority to assign a manager for each funeral establishment, cemetery or crematory. In the case of funeral establishments and immediate disposition companies, the manager shall be an Oregon licensed funeral service practitioner.

(9) Notwithstanding the provisions of subsection (8) of this section, the Board may authorize a funeral service practitioner to manage more than one funeral establishment or immediate disposition company when the Board, in its sole discretion, determines that the management of more than one funeral establishment or immediate disposition company by a single funeral service practitioner is in the public interest. A request by a funeral service practitioner to manage more than one funeral establishment or immediate disposition company shall be in writing and shall describe the basis for the request. Board approval shall be in writing and shall identify each funeral establishment or immediate disposition company the funeral service practitioner is authorized to manage.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320
 Stats. Implemented: ORS 432.165, 432.307, 692.180 & 692.405
 Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0150; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09

830-030-0004
Scope of Practice

The purpose of this rule is to establish an acceptable scope of practice for licensed funeral service practitioners, embalmers, and preneed salespersons.

- (1) Only a funeral service practitioner or funeral service practitioner apprentice shall:
- (a) Work directly with at need persons to arrange for the disposition of human remains; and
 - (b) Coordinate and direct the various tasks associated with performing funeral services for at need persons including but not limited to: taking all vital information on the deceased for the purpose of filing the death certificate; arranging for transportation of the remains; coordinating the services for final disposition; supervising or otherwise controlling the care, preparation, processing and handling of human remains.
- (2) Only a registered preneed salesperson or other funeral service licensee shall engage in prearrangement or preconstruction sales.
- (3) A preneed funeral service salesperson shall not engage in at need funeral arrangements or sales.
- (4) Only a licensed embalmer or certificated embalmer apprentice shall:
- (a) Provide the necessary handling and preparation of human remains, e.g. washing, disinfecting, setting features, embalming and supervising dressing; and
 - (b) Perform the required sanitizing of the preparation room, including but not limited to, embalming tables, work surfaces, sinks, floors, instruments, and handling and properly disposing of contaminated waste.

Stat. Auth.: ORS 183.341 & 692.320
 Stats. Implemented: ORS 692.025

Hist.: MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

830-030-0008

Scope of License

The purpose of this rule is to establish an acceptable scope of license for funeral establishments and immediate disposition companies.

(1) Only a licensed funeral establishment shall:

(a) Have facilities for the care and preparation, processing and handling of human remains before the remains undergo cremation, entombment or burial, or before the remains are transported out of the State of Oregon;

(b) Offer embalming, employ a licensed embalmer, have on premises either a preparation room or holding room facility to care for and prepare human remains; and

(c) Offer formal viewing of human remains.

(2) An Immediate Disposition Company shall only:

(a) Arrange for immediate burials and immediate cremations without public viewing, visitation or ceremony with the human remains present, except for a graveside service; and

(b) If minimum preparation of a human remains is requested by the family, for purposes of having an "identification viewing," the immediate disposition company shall refer the family to a licensed funeral establishment to provide those services.

Stat. Auth.: ORS 183.341 & 692.320

Stats. Implemented: ORS 692.025

Hist.: MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

830-030-0010

Care of Human Remains

(1) All human remains that will be embalmed shall be disinfected by approved disinfecting solutions in such manner to help eliminate the danger of spreading diseases or infection. All human remains that are not going to be embalmed must be wrapped in a sheet. If a human remains is to be held longer than 24 hours, it must at minimum either be embalmed or refrigerated at 36 degrees F. or less until final disposition.

(2) It is the duty of funeral service practitioners and embalmers to see that every precaution is taken to prevent the spread of infections from persons who have died of communicable diseases.

(3) No embalmer shall embalm a human remains without obtaining written or oral permission of a person who has the right to control the disposition of the remains. When oral permission is received to embalm, written documentation/confirmation of the oral permission shall be required and shall be documented by separate signature specifically authorizing embalming either on the "Statement of Funeral Goods and Services Selected" or on a separate embalming authorization form. Written permission shall become a part of the permanent record as outlined in OAR 830-040-0000(6).

(4) All human remains shall be cremated, interred or entombed within ten days after a licensed funeral establishment takes possession of the remains. If human remains are going to be kept longer than a ten-day period due to exigent circumstances, it is the responsibility of the licensee responsible for those human remains to notify the Board's office.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 97.130 & 692.025

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; FDB 1-1979, f. & ef. 2-21-79; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-011-0155; MCB 1-1989, f. & cert. ef. 2-6-89; Renumbered (1)(a) thru (k) to 830-011-0000; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1998, f. & cert. ef. 6-22-98

830-030-0030

Removal and Identification of Human Remains

(1) In accordance with the identifying requirements established in ORS 692.405, the crematory authority shall, immediately upon taking custody of human remains, verify that the human remains bear a means of identification attached thereto as described in OAR 830-030-0000(3), (4)(a) and (b). A crematory authority shall not cremate human remains without an identifying metal disc unless death occurred in a state other than Oregon.

(2) Documents identifying the human remains placed in the custody of a crematory authority prior to cremation shall contain the following information:

(a) Name of deceased;

(b) Date of death;

(c) Place of death;

(d) Name and relationship of authorizing agent; and

(e) Name of authorizing agent or firm engaging crematory services.

(3) If the crematory authority takes custody subsequent to the human remains being placed within a cremation container, the crematory authority shall satisfy itself that identification has been made as described in section (2) of this rule, and thereafter shall place a similar appropriate identification upon the exterior of the cremation container.

Stat. Auth.: ORS 692.320

Stats. Implemented: ORS 692.405

Hist.: MCB 1-1986, f. & ef. 10-21-86

830-030-0040

Holding Human Remains for Cremation and Cremation of Human Remains

(1) No Crematory Authority shall cremate a human remains without obtaining written permission of the person who has right to control the disposition of the remains.

(2) When the crematory authority is unable to cremate the human remains immediately upon taking custody thereof, the crematory authority shall place the remains in a room which shall be marked as "Private" or "Authorized Entry Only."

(3) Human remains that are not embalmed shall be held only within a refrigerated facility or in compliance with applicable public health regulations.

(4) The unauthorized simultaneous cremation of more than one human remains within the same cremation chamber is specifically forbidden. It may be done only when authorized as provided in section (6) of this rule.

(5) Immediately prior to being placed within the cremation chamber, the identification of the human remains shall be verified by the crematory authority staff; and the identifying metal disc from the top head end of the cremation container shall be removed and placed on the inside of the cremation chamber where it shall remain until the cremation process is complete. The identifying metal disc may be hung on the outside of the retort if the cremation chamber has a hook for such purpose.

(6) A crematory authority may only simultaneously cremate more than one human remains within the same cremation chamber upon having received such written authorization to do so from the authorizing agent of each human remains to be cremated. A written authorization shall exempt the crematory authority from all liability for comingling of the products of the cremation process.

Stat. Auth.: ORS 692.320

Stats. Implemented: ORS 692.025, 692.275 & 692.405

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1988, f. & cert. ef. 2-10-88; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

830-030-0050

Processing of Cremated Remains

In order to protect the public's interests and to prevent any misrepresentation in the conduct of doing business, the crematory authority shall process cremated remains in the following manner:

(1) Upon completion of the cremation, insofar as is possible, all residual of the cremation process shall be removed from the cremation chamber and the chamber swept clean. The residual shall be placed within a container or tray that will ensure against co-mingling with other cremated remains, and the identification removed from the cremation chamber and attached to the container or tray to await final processing;

(2) All residual of the cremation process shall undergo final processing;

(3) The entire processed cremated remains shall be placed in a cremated remains container. The identifying metal disc shall be placed on the cremated remains container. The cremated remains

container contents shall not contain any other object unrelated to the cremation process unless specific authorization has been received from the authorizing agent;

(4) If the entire processed remains will not fit within the dimensions of the cremated remains container, the remainder shall be returned either in a separate container, or upon written permission of the authorizing agent, be disposed of according to the established procedures of the crematory authority; and,

(5) The following information will be affixed to the temporary receptacle, or attached to the permanent receptacle for cremated remains: deceased name, date of death, identifying metal disc number, name of funeral home, and name of crematory.

Stat. Auth.: ORS 183.341, 183.545 & 692.320

Stats. Implemented: ORS 692.025 & 692.275

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-2009, f. & cert. ef. 7-1-09

830-030-0060

Rules for Transportation of Human Remains (Does Not Include Removal of Deceased from Place of Death to Funeral Establishment, Cemetery, Crematory or Other Holding Facility)

(1) When an unembalmed human remains is to be transported to a destination after 24 hours after death the remains may be removed from refrigeration and transported as described in OAR 830-030-0080(1) providing that the remains can be transported to its destination within the six hour time-frame. If the remains cannot be transported to its destination within the six hour time-frame, it shall be embalmed or placed in a sealed rigid container.

(2) No disinterred human remains shall be transported from one cemetery to another within the State of Oregon or transported out of the state, except by permit of the State Health Division. A disinterred human remains shall be any human remains removed from one cemetery to another cemetery (this does not apply to cremated remains).

Stat. Auth.: ORS 183.341, 183.545 & 692.160

Stats. Implemented: ORS 432.317 & 692.025

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0160; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09

830-030-0070

Transportation and Care of Persons Who Have Died of Communicable Diseases (Does not Include Removal of Deceased from Place of Death to Funeral Establishment, Crematory or Other Holding Facility)

(1) The transportation of persons who have died of communicable diseases specified by the Oregon State Health Division shall be permitted only under the following conditions: the human remains shall be thoroughly embalmed with approved disinfectant solution; all orifices shall be closed with absorbent cotton; and the body shall be washed.

(2) Communicable diseases which apply to this section are as follows:

- (a) Acquired immunodeficiency syndrome;
- (b) Diphtheria;
- (c) Hemorrhagic fevers (e.g., Ebola);
- (d) Hepatitis B;
- (e) Hepatitis C;
- (f) Hepatitis, delta;
- (g) Human immunodeficiency virus;
- (h) Plague;
- (i) Rabies;
- (j) Tularemia; and
- (k) Tuberculosis.

(3) If religious custom or the conditions of the remains prohibit embalming, a human remains shall be received for transportation by a common carrier if the human remains are placed in a sealed metal casket enclosed in a strong transportation case or in a sound casket enclosed in a sealed metal or metal lined transportation case.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320

Stats. Implemented: ORS 692.025

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

830-030-0080

Requirements for the Holding of Funerals

(1) If a public or private funeral service and/or public viewing is desired over an unembalmed refrigerated human remains, the unembalmed human remains shall not be removed from refrigeration for longer than a total of six hours. No public or private funeral service or public viewing shall be held over the remains of an unwashed, human remains.

(2) No public viewing shall be held over the remains of persons dead from any of the communicable diseases unless embalmed.

(3) Nothing in this section is meant to limit or discourage identification or private viewing of an unwashed, unembalmed human remains by family members or hinder religious customs.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320

Stats. Implemented: ORS 692.025

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; FDB 1-1979, f. & ef. 2-21-79; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0165; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

830-030-0090

Standards of Practice

Every licensee or agent of a licensed facility of the Oregon State Mortuary and Cemetery Board (Board) shall abide by the accepted standards of the Death Care Industry and the minimum standards, including but not limited to the following standards of practice set forth by the Board. Violations of the following may be cause for Board action.

(1) Required conduct related to safety and integrity:

(a) Compliance with Oregon Revised Statutes relating to death care;

(b) Compliance with Oregon Public Health Laws;

(c) Compliance with FTC Funeral Rule;

(d) Implementation and/or follow through of agreed upon arrangements as designated by the responsible party;

(e) Assign persons to perform functions for which they are licensed and which are within their scope of practice/scope of duties;

(f) Maintain supervision of apprentices and unlicensed persons to whom tasks are assigned;

(g) Report through proper channels facts known regarding the incompetent, unethical, unsafe or illegal practices of any death care industry licensee;

(h) Respect the dignity and rights of clients, regardless of social or economic status, age, race, religion, sex, sexual preference, national origin, or disability; and

(i) Respect the dignity of dead human remains by appropriate handling, including but not limited to, refrigerating, embalming, dressing, cremating, and burial.

(2) Conduct unacceptable under the Board's "Standards of Practice."

(a) Conduct generally:

(A) Abusing a corpse, as defined in ORS 166.085 and 166.087;

(B) Abusing a client. The definition of abuse includes but is not limited to causing physical or emotional discomfort or intimidating, threatening or harassing a client;

(C) Engaging in unacceptable behavior towards or in the presence of a client such as using derogatory names or gestures or profane language;

(D) Failing to report actual or suspected incidents of client or corpse abuse through the proper channels in the work place and to the appropriate state agencies;

(E) Using the death care industry practitioner/client relationship to exploit the client by gaining property or items of value from the client for personal gain beyond the compensation for services;

(F) Aiding, abetting, or assisting any individual to violate or circumvent any law, rule or regulation intended to guide the conduct of the death care industry, including but not limited, to funeral service practitioners, embalmers, apprentices, or preneed sales registrants; and

(G) Failing to conduct death care services for the living or the deceased without discrimination on the basis of age, race, religion,

sex, sexual preference, national origin, nature of health problems or disability.

(b) Conduct related to communication and record keeping:

(A) Inaccurate record keeping in client record as required in OAR 830-040-0000;

(B) Falsifying a client's funeral service, cemetery or crematory records; including but not limited to, filling in someone else's omissions, signing someone else's name, recording services and/or merchandise not provided, fabricating data;

(C) Altering a funeral service, cemetery or crematory record; including but not limited to, changing words/letters/numbers from the original document to mislead the reader of the record;

(D) Destroying any document pertaining to a death care service as it pertains to statutory requirements; and

(E) Directing another person to falsify, alter or destroy any death care document.

(c) Conduct related to licensure violations:

(A) Practicing without an appropriate, Oregon license/certificate or registration;

(B) Allowing another person to use one's license, certificate or registration;

(C) Using another's license, certificate or registration;

(D) Using fraud, misrepresentation, or deceit during the application process for licensure, certification or registration or while taking the licensure exam;

(E) Impersonating any applicant or acting as a proxy for the applicant in any Board examination; and

(F) Disclosing the contents of the licensure examination or soliciting, accepting or compiling information regarding the contents of the examination, before, during or after its administration.

(d) Conduct related to the licensee's relationship with the Board:

(A) Failing to provide the Board with requested documents within the Board's jurisdiction; and

(B) Failing to cooperate or answer truthfully and completely inquiries regarding matters within the Board's jurisdiction.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320

Stats. Implemented: ORS 692.320

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0170; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

830-030-0100

Misleading Business Practices

The following practices are prohibited and shall be considered misrepresentation in the conduct of doing business:

(1) Any presentation in such language or manner as to lead the prospect to believe the interment space or rights offered is being given to him and the money he would pay would go into the care fund, whenever this is not the fact.

(2) Any representation that the interment space or rights, merchandise or services are offered at a special price to the prospect only, or for a limited period of time only, whenever this is not the fact.

(3) Any offer of a discount on the price for interment space or rights, merchandise or services, whenever the price of such space, merchandise or services has been increased to cover such an alleged discount.

(4) Any guarantee or representation that the purchase would realize a profit by reselling at a later date.

(5) Any use of interment space used for the unauthorized interment of cremains, remains or other materials without the written authorization by the owner or representative of the owner of such space or interment rights.

(6) Any sale of merchandise or services for future delivery without adequate reserves or trust funds to guarantee such dealing when required. (Lending one's property or name to the sale of merchandise or services for future delivery is deemed the equivalent of the sale of same).

(7) Any offer of free interment space or rights, merchandise or services (hereinafter referred to as "free goods") either in a drawing or lottery, or offer of free goods to any organization, group or person in conjunction with another obligation without disclosure of such obligation.

(8) Any denial of responsibility by the owner or operator for the representations and practices of employees of the facility.

(9) Any sales presentation or practice which conceals or misstates a material fact shall be considered a misrepresentation in the conduct of doing business.

(10) Any failure to comply with the terms of the sales contracts, or state or local law requirements, with respect to irrevocable permanent care, and failure to comply with any other applicable laws and regulations relating to cemeteries.

(11) Any advertising or other presentation or indication that a licensee is in any way connected with the federal government, any other government agency, or any veterans' or other organization. If a veterans' or other organization's program is referred to in any advertisement, sales program or presentation, such reference shall be accompanied by a disclaimer in bold type to the effect that "This program is not financed or connected in any manner with any government agency or veteran's or other organization."

(12) Any use of advertisements, printed materials, forms, or any other materials that resemble or suggest official government documents or publications.

(13) Any advertising or other representation that interment space is not available in government cemeteries in the certificate of authority's area, without full disclosure in such advertisements or other representations of the availability of space in the nearest government cemeteries.

(14) Any circulation or petitions relating to veterans' benefits, which have been proposed by members of Congress or other government officials, without the written express consent of the author, and any use of such material in connection with sales promotion programs.

(15) Any advertising or other offer of interment space or rights to veterans or others which does not provide for deed or assignment of such space or rights at the time of acceptance of the offer and customary or required endowment care payment, unless these facts are clearly disclosed at the outset in such advertisement or offer.

(16) Any misuse of the word "free" in advertising, sales promotions or presentations in connection with sales programs. If allowance or discount to veterans or other persons is offered, it must be bonafide and the comparative price for the veteran and nonveteran or other such person must be shown. Any such allowance or discount must not be made by adjusting upward the price of other items, or the price of the interment space or rights for wives to cover the lower price to the veterans or other persons. Further, it shall be a violation of these rules to fail to disclose any material fact or condition of the offer, or to use any other misrepresentation in sales practice.

(17) The provisions of these rules shall apply to any and all other groups whereby offers similar to veteran's programs are sponsored by a licensee. Examples of such groups are the Masonic Order, labor unions, head of household, or any other associated groups selected for any sales promotion.

(18) Licensees shall, in their preneed sales programs, include a reasonable period of not less than five days during which purchasers are extended the privilege of canceling their purchase contracts.

(19) Licensees who violate any of the provisions of these rules will be subject to disciplinary action by the Board as provided for in ORS 692.180.

Stat. Auth.: ORS 183.341, 183.545 & 692.320

Stats. Implemented: ORS 692.025 & 692.180

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97

DIVISION 40

FUNERAL ESTABLISHMENTS, IMMEDIATE DISPOSITION COMPANIES, CREMATORIALS, CEMETERIES AND OPERATORS OF SAME

830-040-0000

General Principles

(1) Every licensee operating under ORS Chapter 692 shall be responsible for complying with the provisions of ORS Chapter 692

and rules adopted thereunder, and any other law pertaining to the duties and responsibilities of the funeral service practitioner or the operation or licensing of funeral establishments, immediate disposition companies, cemeteries and crematoriums.

(2) No licensed facility shall be advertised or operated without the appropriate license or certification or be held out under any name which could be termed misleading.

(3) When a person, firm, partnership or corporation applies to the Board for a funeral establishment license, immediate disposition company license, or certificate of authority to operate a cemetery or crematorium, the name shall contain the identification of the activity, business or profession of funeral, immediate disposition, cemetery or crematory service as set forth in ORS Chapter 692 and the rules adopted thereto. This identified name shall be the registered name with the Board and shall also be utilized as the advertised name of the funeral, immediate disposition company, cemetery or crematory establishment.

(4) Applications for all licensed facilities shall specify the names of all principals. If the principal is a corporation, the application shall include the names of all principals of that corporation.

(5) When there is a change in any principal of the licensed facility, the licensee shall provide the Board with the name of the new principal(s) on a form provided by the Board within 30 days of the change. If the new principal is a corporation, the licensee shall provide the names of the principals of that corporation to the Board on a form provided by the Board.

(6) All licensees, licensed facilities and funeral service practitioners shall keep a detailed, accurate, and permanent record of all transactions that are performed for the care and preparation and final disposition of human remains. The record shall set forth as a minimum:

(a) Name of decedent and the identifying metal disc number provided by Vital Statistics;

(b) Date of death;

(c) Name of purchaser of professional services and relationship;

(d) Name of place wherein remains are to be interred or cremated (in cemetery records the exact location of the interment of remains by crypt, niche, or by grave, lot and plot);

(e) The name of the funeral service practitioner or cemetery or crematory personnel responsible for making the arrangements;

(f) The name of the embalmer responsible for embalming (does not apply to cemetery or crematorium records); and

(g) Written documentation of permission to embalm or cremate a human remains is required from the person who has the right to control disposition of the remains pursuant to ORS 97.130(1) and (2). The record of such authorization shall be made to include as a minimum: The name of the authorizing individual and relationship to the deceased, date and time contacted, phone number and name of the licensee or funeral home representative acquiring the authorization (does not apply to cemetery or crematorium records).

(7) In the case of cremation, the licensee responsible for making the cremation arrangements shall require the person making the cremation arrangements to provide the licensee with a signed statement specifying the action taken regarding delivery of the cremated remains. A copy of this statement shall be retained by the responsible licensee and be made a part of the permanent record.

(8) If cremated remains are not retained by the licensee accepting initial responsibility, the licensee shall upon delivery of such cremated remains to another individual, obtain a signed receipt from that individual. The receipt shall state the name of the individual receiving the cremated remains, the name of the deceased, and the date of delivery of such cremated remains. The individual receiving the cremated remains shall sign the receipt. The licensee or the licensee's representative releasing the cremated remains shall also sign the receipt and a copy of that receipt shall remain a part of the permanent record.

(9) No funeral establishment operator, immediate disposition company operator, cemetery authority or crematory authority shall:

(a) Fail to preserve permanent records for inspection by the Board; or

(b) Alter, cancel or obliterate entries in permanent records for the purpose of falsifying any record required by this chapter to be made, maintained or preserved.

(10) After human remains are released to the cemetery authority, they shall be placed in their designated grave, crypt or vault within 24 hours after taking possession of the remains unless exigent circumstances exist. After human remains are released to the crematory authority, those remains shall be cremated and processed within 48 hours unless exigent circumstances exist. In such exigent circumstances, the cemetery/crematory authority shall notify both the funeral service practitioner responsible for the arrangements and the office of the Board. The funeral service practitioner responsible for the arrangements for that deceased shall notify the family of such exigent circumstances.

(11) No licensee shall pay, cause to be paid or offer to pay, and no person, firm or corporation shall receive, directly or indirectly, any commission, bonus, rebate or other thing of value in consideration for recommending or causing a human remains to be taken to any specific funeral establishment.

(12) When the Board issues to any person a certificate of authority to operate, license or certificate of apprenticeship the licensee shall post the certificate in a conspicuous location for public viewing. Individual licenses will be available for inspection upon request.

(13) Every cemetery authority and crematory authority shall keep the Board's office informed of the location of their permanent records. These records shall be made available for random inspections by the Board at any reasonable time.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320

Stats. Implemented: ORS 692.025 & 692.160

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0200; MCB 1-1988, f. & cert. ef. 2-10-88; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09

830-040-0005

Contract Requirements

It is the responsibility of each licensed facility entering into contracts, either at need, prearrangement or preconstruction, for death care goods and services to have printed (in a minimum 10-point print) at the bottom of each contract "This facility is licensed by the Oregon State Mortuary and Cemetery Board." All contracts executed after January 1, 1998 shall contain this language.

Stat. Auth.: ORS 183.341 & 692.320

Stats. Implemented: ORS 692.320

Hist.: MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98

830-040-0010

Inspection of Licensed Facilities or Location Where Records Are Kept: Investigations

(1) All funeral establishments, cemeteries and crematories shall keep their premises sanitary at all times.

(2) Every licensee shall accommodate the inspector or investigator of the Board in making his/her random inspections. No appointments shall be necessary unless exigent circumstances exist. In such cases, the licensee shall make the reasons known to the Board in writing within ten days following the attempted inspection.

(3) No licensee or employee of a licensed facility shall give false or misleading information to an inspector, investigator or any other member of the Board while investigating a possible violation of law or administrative rules.

(4) Every licensee shall provide the State Mortuary and Cemetery Board inspector a copy of all price lists and other business documents as requested relevant to inspection or investigation.

(5) No person, licensee, or any agent of a licensee, shall interfere with any inspection or investigation conducted by an agent of the Board.

(6) No licensee, nor any employee of a licensee, shall refuse or fail to promptly open a door to a licensed facility upon request of an investigator or inspector to enter the premises when the licensee or employee knows or should know that such request is made by an officer or inspector of the Board, and the investigator or inspector has

reason to believe that a violation of law or administrative rule is occurring on the premises. This provision shall not be construed to deny the State Mortuary and Cemetery Board investigator and inspector access at any reasonable time to any licensed facility.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320

Stats. Implemented: ORS 692.180

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93

830-040-0020

Requirements and Specifications for Preparation Rooms

(1) The preparation room shall be of sufficient size to accommodate an operating or embalming table, a sink with running water and proper sewerage connections or systems, an instrument table, and a cabinet or shelves.

(2) The interior of the preparation room, all furnishings, and equipment shall be finished with materials impervious to microbes, liquids and gases.

(3) Outside ventilation shall be provided for by windows or transoms or forced air ventilation. The installation must be so arranged that it shall not be a menace to public health or offensive to the public.

(4) In order to make the room as sanitary as possible, flooring must be impervious to microbes, liquids and gases.

(5) The preparation room must be private and cannot be located near a public passageway. The preparation room entry door(s) must be labeled as "private" or "authorized entry only." This sign must be conspicuous and readable and must be permanently affixed to the door. The lettering on the sign shall not be smaller than one inch high.

(6) All windows and exterior doors are to be screened or permanently closed and must be installed in such a way that the room shall be obstructed from view from the outside and so that fumes and odors are prevented from entering other parts of the building.

(7) The equipment for preparation rooms shall include the following:

(a) An operating or embalming table, which provides suitable drainage;

(b) A covered waste can and a sink with running water and sewerage connections, disinfectants and antiseptics;

(c) A first aid emergency kit for personnel use which shall contain the minimum first aid supplies as specified by Workers' Compensation Department, OAR 437-127-0015; and

(d) In addition to the supplies required by Workers' Compensation Department, the State Mortuary and Cemetery Board requires one eye wash station be available for personnel use. The station should be plumbed into the cold water supply. There shall be two water spouts which are activated by one motion. The water must be able to flow continuously, hands free, for not less than 15 minutes to allow both eyelids to be held open during the rinsing process.

(8) Instruments used during an embalming shall be cleaned and sterilized (either in a steam sterilizer or by chemicals) after each embalming. Instruments shall be free of stains and foreign particles.

(9) The preparation room shall be kept in a sanitary condition at all times.

(10) All facilities shall have a mortuary or hospital refrigeration unit available which is suitable for the storage of human remains. The refrigeration unit shall be in good operating condition and shall be maintained in a sanitary condition at all times. The refrigeration shall be no more than 30 minutes driving time from the licensed facility.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320

Stats. Implemented: ORS 692.025

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0205; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1998, f. & cert. ef. 6-22-98

830-040-0030

Name Registered with Board

Each licensed facility shall be registered with the State Mortuary and Cemetery Board by its true corporate, firm or individual name. In addition, one assumed business name, as registered with the Corporation Commission, may be used by such licensed facility and shall be promptly reported to the Board.

Stat. Auth.: ORS 692.320

Stats. Implemented: ORS 692.025

Hist.: FDB 1-1978, f. & ef. 6-30-78; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0210

830-040-0040

Change of Ownership

Prior to a change of ownership, the prospective new owner shall apply to the Board for the issuance of a new license on forms provided by the Board in the new owner's name. (Refer to section (3) of this rule). In no event shall a funeral establishment, immediate disposition company, crematory or cemetery be operated without the appropriate license or certificate of authority to operate. The appropriate fees and disclosures shall accompany the application.

(1) Board approval: It is the intent of this rule that all licensed facilities receive Board approval prior to the sale or change of ownership of a licensed facility and provide the Board with a full disclosure of ownership of that licensed facility including percentages of ownership.

(2) All licensed facilities shall be licensed by the Board and all applications for licenses shall specify the real and true names of the person(s) who own or have an interest in the business proposed to be licensed by the Board, and shall be signed by such person(s) or in the case of corporations, by a duly authorized officer or agent.

(3) Licenses issued under ORS 692.146 and 692.275 are not transferable; therefore, prior to change of ownership, sales, or purchase agreements pertaining to such shall be conditioned upon the prospective new purchaser's ability to apply for and obtain the necessary license or certificate of authority to operate. All licensed or certificated facilities are subject to the inspection and approval of the Board. Before opening a new facility or continuing the operation of an existing facility under new ownership, the prospective operator or new owner shall apply to the Board on a form provided by the Board with all ownership and, if applicable, corporate information. Prior to a transfer of ownership, the prospective new purchaser and seller shall notify the Department of Consumer and Business Services, giving notice of sale to that office, and give the approximate or intended date of the change of ownership.

(4) The purchase of a controlling interest (a majority) of assets or stock of an existing licensed facility will constitute a sale or change of ownership. The person or persons who own the stock of a licensed facility shall be considered the ownership of the licensed facility. Any one person who owns a majority of the stock shall be considered an owner. When percentages of stock ownership change, any person moving into a majority position shall be required to submit an application for change of ownership.

(5) Corporate Licenses:

(a) The corporate licensee shall notify the Board in writing whenever a person intends to acquire or accumulate ownership or control of ten percent or more of any class of stock in a licensed facility, except for stock in a publicly traded corporation;

(b) Except for publicly traded corporations, the corporate licensee shall notify the Board immediately in writing when there has been a change in an officer or director;

(c) The Board may disapprove a change or acquisition described in this rule for any of the grounds for which a license may be denied.

(6) Partnership licensees:

(a) For the purposes of this rule, a partnership is an association of two or more persons who carry on a business jointly and who demonstrate an intent to be treated as partners by signing a partnership agreement, or by entering into a lease or contract under a name different from their real and true names;

(b) The licensee must obtain prior written approval from the Board whenever a person intends to become a general partner in a partnership or intends to acquire or control ten percent or more of the total investment commitment in a licensed limited partnership;

(c) The licensee shall notify the Board in writing whenever an existing approved partner increases or decreases his/her investment interest;

(d) The Board may disapprove a change or acquisition described in this rule for any of the grounds for which a license may be denied.

(7) Colicensees: For purposes of this rule, whenever two or more persons intend to carry on the business jointly other than as a corporation, partnership, or other approved legal entity, they shall be treated as colicensees. Spouses usually fall within this category. Corporations, partnerships, individuals, or other legal entities may become colicensees. If corporations, or partnerships become colicensees, they must comply with the requirements pertaining to corporate and partnership licensees.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320
 Stats. Implemented: ORS 692.025 & 692.160
 Hist.: FDB 1-1978 f. & ef. 6-30-78; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0215; MCB 1-1993, 4-14-93, cert. ef. 4-16-93; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09

830-040-0050
Advertising

(1) Each licensed facility advertising through any media (including but not limited to telephone books, newspapers, direct mail, bill boards, etc.) shall include either the licensed facility's registered name, or its assumed business name and physical address as it appears on the Board's records. All printed materials and letterhead shall include the physical location of the facility.

(2) No person, firm or corporation shall advertise, promote, or market at need or preneed funeral arrangements without first having received a license from the Board.

(3) No cemetery or cremation facility, or person, firm or corporation shall advertise, promote, or market at need or preneed cemetery or cremation plans without first having received either a certificate of authority to operate that cemetery or crematorium.

(4) No person, firm or corporation shall advertise, promote, or market at need or preneed immediate disposition arrangements without having first registered with the Board.

(5) Any advertisement which intentionally conceals or misstates a material fact shall be considered misrepresentation.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320
 Stats. Implemented: ORS 692.160
 Hist.: FDB 1-1978, f. & ef. 6-30-78; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0220; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93

830-040-0060
Listing of Employees — Name

(1) Any listing of names of employees of a licensed facility in connection with that facility shall use either the facility's registered name or its assumed business name as it appears on the Board's records.

(2) All licensed facilities shall report to the Board, on a form provided for such purpose, a complete list of all licensed employees (full-time, part-time, and licensed independent contractors) at the time of renewal of license.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320
 Stats. Implemented: ORS 692.025
 Hist.: FDB 1-1978, f. & ef. 6-30-78; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0225; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97

830-040-0070
Multiple Establishments at Single Location

The following criteria shall apply to the operation of more than one funeral establishment at a single location:

(1) One or more of the establishments shall give prompt written notice to the Board of the commencement of the use of the single location and shall give such further notice thereof as the Board deems reasonable in the circumstances to apprise interested persons thereof.

(2) For purposes of funeral establishment inspection sheets, each of the establishments shall be considered as if they constituted a single establishment.

(3) In issuing a license to each establishment, the other establishments shall be named as associated therewith.

(4) Two or more establishments operating at a single location must so identify this fact in any public communications.

Stat. Auth.: ORS 692.320
 Stats. Implemented: ORS 692.025 & 692.180

Hist.: FDB 1-1978, f. & ef. 6-30-78; FDB 1-1979, f. & ef. 2-21-79; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0230 ; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97

830-040-0080
Rental Cover

Where an establishment offers an outside cover for reuse which is to be used in conjunction with a burial or cremation container, the items shall be represented as separate and distinct items. The "cover" is defined as a partial enclosure which appears similar to a casket.

Stat. Auth.: ORS 692.320
 Stats. Implemented: ORS 692.320
 Hist.: FDB 1-1978, f. & ef. 6-30-78; FDB 1-1979, f. & ef. 2-21-79; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86, Renumbered from 830-010-0235

DIVISION 50

UNPROFESSIONAL CONDUCT

830-050-0000
Failure to Comply with Rules

(1) Failure to comply with ORS Chapter 692 and these rules shall be considered unprofessional conduct.

(2) It is considered unprofessional conduct for any person or licensee to directly or indirectly cause any other person or licensee to be in violation of any section of applicable rule or law.

Stat. Auth.: ORS 183.341 & 692.320
 Stats. Implemented: ORS 692.320
 Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0250; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93

830-050-0050
Cause for Disciplinary Action

The following circumstances may be considered grounds for reprimand, assessment of civil penalty, or refusal to grant, refusal to renew, revocation, or suspension of an applicant's or a licensee's license, certificate, or registration.

(1) Evidence of habitual use or abuse of intoxicants, drugs or controlled substances which impairs or compromises acceptable industry practice.

(2) Making false or misleading statements in applying to the Board for licensure, certificate of authority, certificate of registration, or apprenticeship.

(3) Conviction of a crime whose facts and circumstances have a demonstrable bearing upon the standards of the profession.

(4) Insanity or mental disease as evidenced by an adjudication or by voluntary commitment to an institution.

(5) Disciplinary action by Oregon or another state against a personal, professional or business license, including but not limited to a death care industry license, where the conduct upon which the disciplinary action was based bears a demonstrable relationship to death care industry practices or operations.

(6) Violating any provision of ORS Chapter 692, or any rule adopted by the Board, Board Order, or failing to comply with a Board request.

(7) Failure to report to the Board any information required in OAR 830-011-0060.

(8) Allowing an unlicensed, uncertificated or non-registered individual to perform the duties of licensed individuals including but not limited to, making arrangements with families, making preneed arrangements, assisting with embalmings, etc.

(9) Fraudulent or dishonest conduct where such conduct bears a demonstrable relationship to sales and/or business practices.

Stat. Auth.: ORS 692.320 & 128.414
 Stats. Implemented: ORS 692.180, 692.320 & 128.414
 Hist.: MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2001(Temp), f. 12-12-01, cert. ef. 1-1-02 thru 6-29-02; MCB 1-2002, f. 5-30-02, cert. ef. 6-30-02

