

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 Model Rules of Procedure under the Administrative Procedures Act, which became effective January 1, 2012, 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 21 days before the effective date of the rule;

(b) By mailing, or if requested, emailing a copy of the notice to persons on the Mortuary and Cemetery Board's mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(c) By mailing, emailing, or furnishing a copy of the notice to the United Press International and Associated Press, Oregon Funeral Directors Association and the Cemetery Association of Oregon;

(d) By mailing, emailing, or furnishing a copy of the notice 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;

(e) By emailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the intended action.

[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; MCB 1-2013, f. 3-25-13, cert. ef. 3-29-13

DIVISION 11

GENERAL INFORMATION

830-011-0000

Oregon Administrative Rules Compilation

Definitions

(1) "Alkaline hydrolysis" is a final disposition process involving dissolution of human remains by placing the remains in a dissolution chamber containing water and chemical solution including potassium hydroxide or sodium hydroxide, or a combination of both, and introducing heat to break down the remains until bone fragments that may be pulverized and liquid remain.

(2) "Alternative Disposition" Alternative disposition is a board-authorized method of final disposition of human remains other than burial, entombment, burial at sea, cremation or removal from the state, and includes dissolution.

(3) "Alternative Disposition Facility" An alternative disposition facility is a facility containing equipment designed for the final disposition of human remains through alternative methods authorized by the board including, but not limited to, dissolution.

(4) "Alternative Disposition Facility Authority" An Alternative Disposition Facility Authority is any person, partnership or corporation with a Certificate of Authority to operate a dissolution chamber or other alternative disposition equipment as authorized by the Board by rule.

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

(6) "Authorizing Agent" An authorizing agent is a person legally entitled to order the arrangements and disposition of human remains and cremated remains.

(7) "Burial Vault" A burial vault is a container designed to protect the contents from the intrusion of outside elements, and support the weight of the surrounding earth and maintenance equipment.

(8) "Certificate of Authority" A Certificate of Authority is a certificate issued to an entity responsible for the operation of a cemetery, crematory, or alternative disposition facility.

(9) "Cremated Remains" and "Alternative Disposition Remains" Cremated remains or alternative disposition remains are the remaining bone fragments after the act of cremation or alternative disposition is completed.

(10) "Cremated Remains Container" and "Alternative Disposition Remains Container" A cremated remains or alternative disposition remains container is a container in which processed cremated remains can be placed and closed to prevent leakage.

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

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

(13) "Cremation Container" A cremation container is the container, if any, in which the human remains are placed for a cremation. The container must meet all the requirements of the crematorium.

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

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

(16) "Death Care Consultant" A death care consultant is an individual who, for payment, provides consultations related to funeral or final disposition arrangements to the person or persons who are acting as a funeral service practitioner under ORS Chapter 432. For purposes of this definition, the consultations include any conference, information, guidance or advice either at the time of death or when the death is soon to occur.

(17) "Death Care Industry" Death care industry means funeral service and final disposition practitioners and facilities.

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

(19) "Disposition" Disposition is final disposition by burial, entombment, burial at sea, cremation, removal from the state, dissolution or other alternative disposition as authorized by board rule.

(20) "Dissolution" Dissolution includes, but is not limited to, alkaline hydrolysis.

(21) "Dissolution Chamber" A dissolution chamber is a purpose-built vessel that is closed and sealed on all sides when human remains are placed inside and the dissolution process takes place.

(22) "Dissolution Container" A dissolution container is the container, if any, in which human remains are placed for the purpose of placement in the dissolution chamber.

(23) "Embalmed" Human remains are considered embalmed when sufficient disinfectant solution or preservative fluid has been injected into the circulatory system or applied externally, or both, to help eliminate the danger of spreading disease or infection.

(24) "Final Processing" Final Processing is the processing of bone fragments to an unidentifiable dimension following the cremation or dissolution process.

(25) "Grave Liner" A grave liner is a burial container either in sectional or box form, built and designed to be installed in a grave to support the weight of the earth and maintenance equipment.

(26) "Holder of a Certificate of Registration" A "Holder of a Certificate of Registration" means the same as "Certified Provider" as defined in ORS 97.923(2).

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

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

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

(30) "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 human remains through the disposition process and to serve as a means of permanent identification of those remains.

(31) "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.

(32) "Licensed Facility" A licensed facility is any licensed business governed by ORS Chapter 692.

(33) "Licensee" Licensee means any individual or facility licensed under ORS Chapter 692 and any preneed salesperson registered under ORS 97.931.

(34) "Minimum Preparation of Human Remains" Minimum preparation of human remains means the human remains are completely washed as defined in this section.

(35) "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.

(36) "Prearrangement" As used in this chapter, prearrangement has the same meaning as used in ORS 97.923.

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

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

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

(40) "Principal" Principal means a person who has 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) General Partners, limited and joint ventures;

(d) Sole proprietors;

(e) Stockholders holding a majority of outstanding shares of stock; and

(f) Members of a Limited Liability Company.

(41) "Processed Cremated or Alternative Disposition Remains" As used in this chapter, processed cremated or alternative disposition remains are the result of pulverization, where the residual from the cremation or alternative disposition, such as dissolution, process is reduced to unidentifiable dimensions.

(42) "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.

(43) "Receptacle" As used in this chapter, a receptacle means a container for human remains including but not limited to a casket, alternative container, or cloth or plastic container.

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

(45) "Registration" 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.

(46) "Sanitary Condition" Sanitary includes, but is not limited to, being clean from dirt, foreign particles, bloodstains, offensive odors or insects.

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

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

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

(50) "Washed" Human remains are 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 97.931 & 692.320

Stats. Implemented: ORS 97.931 & 692.320

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; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-011-0010

Employees, Meetings, Officers of the Board

(1) The Board shall employ an executive director, investigator, inspector and other office personnel 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.

(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.

Stat. Auth.: ORS 692.300, 692.310 & 692.320

Stats. Implemented: ORS 676.300, 676.306, 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

830-011-0020

Apprenticeship — Generally

(1) Apprenticeship for embalmer, funeral service practitioner, or intern apprentice must be served under persons who are and have been licensed and working in Oregon for at least one year.

(a) A funeral service practitioner may supervise one apprentice at a time and an embalmer may supervise one apprentice at a time.

(b) Notwithstanding (a), a combination embalmer/funeral service practitioner may supervise up to three intern apprentices from an accredited funeral service education provider in addition to an apprentice embalmer; or may supervise an apprentice funeral service practitioner and an apprentice embalmer.

(c) The licensee who supervises an apprentice must be working and located in the same licensed facility or facilities as the apprentice he or she is supervising.

(2) To qualify for a license as an embalmer, an apprentice embalmer must assist in the embalming of at least 35 human remains during the apprenticeship period under the personal supervision of a licensed embalmer.

(a) An apprentice embalmer must maintain a log book of embalming under supervision, with accurate and current entries, and the apprentice and his or her supervisor must furnish this record to the Board upon request. The log book must be retained for a period of one year after full licensure as an embalmer, or, if not licensed as an embalmer, for six years after the last log entry and must include the following:

(A) Name of the deceased;

(B) Date of death;

(C) Date and place of embalming;

(D) Name of licensed facility making the embalming arrangements;

(E) Supervisor's written confirmation for each embalming performed by their apprentice; and

(F) Number of hours worked per week.

(b) Apprentice embalmers must work a minimum of 1440 hours within a calendar year.

(3) To qualify for a license as a funeral service practitioner, an apprentice funeral service practitioner must work a minimum of 1440 hours within a calendar 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.

(a) Apprentice funeral service practitioners will not be accredited for time served in their funeral service practitioner apprenticeship while 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 or she will be considered a part-time student and could qualify for a funeral service practitioner apprenticeship providing he or she can meet the minimum requirements set forth above. Apprentice funeral service practitioners who are planning to become part-time students must submit a letter to the Board clearly explaining their ability to attend classes and still meet the

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minimum requirements of this section. The board will review each request 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.

(b) An apprentice funeral service practitioner must keep a log book on the premises of the licensed facility where he or she is supervised, showing all arrangements made or participated in by the apprentice. The apprentice, under supervision, must make accurate and current entries. The apprentice and his or her supervisor must furnish the log book to the Board upon request.

(c) The log book must be retained for a period of one year after licensure as a funeral service practitioner, or, if not licensed, for six years from the last log entry, and must include the following:

(A) Name of deceased and person authorizing final disposition arrangements;

(B) Date of death;

(C) Date and place arrangements were made;

(D) Description of apprentice's direct participation with family;

(E) Number of days and hours worked per week;

(F) Supervisor's written confirmation for each arrangement made by their apprentice; and

(G) Name of the licensed facility responsible for the final disposition arrangements.

(4) Intern apprentices must 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.

(a) Intern apprentices are required to intern at a funeral home for a minimum of 15 hours per week.

(b) An intern apprentice funeral service practitioner who completes the three-month internship earns 180 hours toward the 1440 hours per calendar year requirement of a funeral service practitioner apprenticeship. If the intern apprentice is also serving an embalmer apprenticeship and is meeting the 1440 hours per calendar year requirement set forth in section (2) and in section (4) of this rule then full credit (360 hours) will accrue toward completion of the embalmer apprenticeship.

(c) If the intern is performing the functions of an intern funeral service practitioner in addition to an intern apprentice, then the apprentice must also receive credit of 180 hours for the three-month period toward the 1440 hours per calendar year requirement for a funeral service practitioner license.

(5) Applicants for an apprentice certificate must make application in accordance with ORS Chapter 692. The application must be made on the most current form provided by the Board and 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 or she must present satisfactory evidence that he or she possesses the equivalent of a high school education received in a private, public, or trade school, or he or 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 must 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 must provide proof of completion of an accredited course of funeral service education.

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

(7) The certificate of apprenticeship must be issued to the applicant as an apprentice to a specified licensee. If the apprentice intends to change the licensee to whom apprenticed, he or she must immediately

file a request for approval of the transfer with the Board and pay the required fee. A certificate must be reissued upon payment of an administrative charge. When an apprentice ceases to work under a specific licensee, the apprenticeship certificate becomes null and void. It is the responsibility of the supervising licensee to notify the Board's office of any termination in employment or supervision of the apprentice.

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

(9) Apprentice supervisors are responsible for any arrangements made by the apprentice.

(10) In lieu of meeting apprenticeship requirements, an applicant for Oregon funeral service practitioner or embalmer licensure is deemed to have satisfied the respective apprenticeship requirement upon submitting satisfactory proof to the Board that the person has practiced, respectively, as a funeral service practitioner or embalmer licensed in good standing in this state or another state:

(a) For three years of the past five years; or

(b) For a total of ten years.

(11) Embalmer applicants who meet the requirements set forth in section (10) of this rule may be required to demonstrate competency by way of a practical examination at a time and place designated by the Board.

(12) Funeral service practitioner applicants who meet the requirements set forth in section (10) of this rule must successfully complete a written examination and receive a score of not less than 75 percent, based on the total number of questions.

(13) An applicant or licensee whose application for license has been denied or revoked or who voluntarily surrendered the license may not reapply for a minimum period of three years unless otherwise specified in a Board order denying, revoking or accepting a voluntary surrender of the application or license.

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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

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 individual or facility licenses and principals of facilities seeking or holding a license must submit to a background investigation. The background investigation may include, but is not limited to, information solicited from the Law Enforcement Data Systems, other government agencies or courts, personal references, former employers, and credit checks. The Board may require the applicant or principal 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 a condition exists in relation to any principal of a licensed facility which constitutes 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; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

830-011-0070

Registration of Preneed Salespersons and Endowment Care Cemetery Salespersons

(1) Applicants for registration as a preneed salesperson must apply on the most current 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 Vehicles, other government agencies including local law enforcement agencies, the courts and prior employers.

(2) 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, other than as an observer, until a certificate of registration has been issued to the applicant by the Board. It is the responsibility of the salesperson to provide written notice to the Board of any address changes within 30 days of the change.

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

(4) 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.

(5) 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.

(6) 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.

(7) The Board will not issue or renew the registration for a preneed salesperson that owes outstanding civil penalties to the Board.

Stat. Auth.: ORS 97.931

Stats. Implemented: ORS 97.931

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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

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 registered preneed salesperson, applicant or unregistered individual has not complied with the provisions of ORS 97.923 to 97.949 or ORS 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 97.931 & 692.320

Stats. Implemented: ORS 97.931

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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

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 14 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 or her 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 or she has fulfilled his or her 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 or she 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 14 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 692.160 & 692.320

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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; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

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, on its internet website, a list of the Board's licensees.

(4) A person licensed under ORS Chapter 692 shall not be required to renew his or 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 or 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 or 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 may then be restored to former status. The Board shall not impose any fees 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; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

830-020-0030

Reciprocal Licensure

(1) An applicant for reciprocal licensure must apply to the Board on the most current form provided by the Board. The application must 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 certification from the state(s) the applicant is or was licensed in that includes: length of apprenticeship, if any, 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 or was 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

(2) An applicant for reciprocal funeral service practitioner license must 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 must include questions related to:

(a) Oregon and federal laws, rules and regulations relating to the care, preparation, disposition and transportation of human remains; and survivor death benefits.

(b) Reciprocal applicants for funeral service practitioner license must receive a score of not less than 75 percent, based on the total number of questions, in order to pass the examination. Reciprocal applicants are eligible to take the examination at the regularly scheduled examination dates if their examination application is received at least 14 days prior to the examination date.

(3) Applicants for reciprocal embalmer licensure must 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. The examination must include two sections, funeral service arts and funeral service sciences, and the applicant must receive a cumulative average score of at least 75 percent on the sections with not less than 70 percent on either of these two sections.

(4) A license must not be issued to a reciprocal applicant before a complete background check has been performed and Board approval has been received.

Stat. Auth.: ORS 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12; MCB 1-2013, f. 3-25-13, cert. ef. 3-29-13

830-020-0040

License, Certificate and Registration Fees

(1) Initial application fees:

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

(b) Cemetery that performs ten or fewer interments annually — an initial fee of \$100 and a fee not to exceed \$50 for registration of all principals regardless of the total number of principals

(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;

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- (i) Funeral Service Practitioner — \$80 per year;
- (j) Embalmer — \$80 per year;
- (k) Death Care Consultant — \$80 per year.
- (2) Renewal application fees:
 - (a) Funeral establishment or immediate disposition company — \$350 per year, payable biennially;
 - (b) Crematory or Alternative Disposition Facility — \$100 per year plus \$2 per disposition 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 annually 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;
 - (j) Death care consultant — \$80 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).
 - (c) Death care consultant exam — \$100.
 - (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 must renew their licenses on even numbered years. Facilities must renew on odd numbered years.
 - (7) Fees paid under this section are not refundable or transferable.
 - (8) Notwithstanding the above, a registrant for the funeral service practitioner examination may notify the Board in writing that he or she is withdrawing the application for the examination and request a refund of the examination fee at any time before the date of the examination. Examination fee refunds will be refunded to the person that paid the examination fee to the board; fees paid by credit card will be refunded to the credit card holder, fees paid by money order or cashier's check will be refunded to the applicant.

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; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12; MCB 1-2013, f. 3-25-13, cert. ef. 3-29-13

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. A schedule of administrative fees will be approved as necessary by the Board and will be made available to the public.

(2) All fees and charges must be paid before public records may be made available for inspection or copies provided.

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; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

DIVISION 30

DUTIES OF FUNERAL SERVICE PRACTITIONER CREMATORY AUTHORITY — CEMETERY AUTHORITY — ALTERNATIVE DISPOSITION AUTHORITY

830-030-0000

In General

(1) No licensee, operator of a licensed facility, or their agent may 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 facility or licensed person must be left entirely to the individual with the legal right to control final disposition

(2) Alternative Disposition Facility Authorities must comply with the requirements in this division (Division 30) for the handling and tracking of human remains prior to, during, and after cremation as if the Alternative Disposition Facility Authority is a Crematory Authority, the alternative disposition remains are cremated remains and the dissolution chamber is a cremation chamber.

(3) Alternative Disposition Facility Authorities using alkaline hydrolysis for dissolution must comply with the following requirements:

(a) The Alternative Disposition Facility Authority must only employ a purpose-built vessel as a dissolution chamber.

(b) Dissolution systems which operate above atmospheric pressure must only employ an American Society of Mechanical Engineers' (ASME) certified pressure vessel as a dissolution chamber.

(c) The dissolution system must use parameters of heat, time and solution circulation sufficient to achieve complete dissolution of all tissue remains.

(d) The Alternative Disposition Facility Authority must ensure that the discharge liquid that is a byproduct of the dissolution process meets the facility's sewage collection and treatment facility requirements regarding acceptable temperature and pH level.

(4) It is the responsibility of the funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11) to ensure that an identifying metal disc with a number assigned by the State Registrar's Office imprinted on the disc is attached to the casket or other receptacle containing human remains, or is attached to the remains if there is no receptacle.

(a) When human remains are to be cremated the identifying metal disc must be secured to the head end of the receptacle, or to the remains if no receptacle is used, at all times until the remains are placed in the cremation chamber.

(b) When human remains are going to be buried or entombed, the identifying metal disc must be attached to the head end of the casket or receptacle, or to the remains if no receptacle is used.

(c) The number on the identifying metal disc must be written or typed on the certificate of death and final disposition permit by the responsible funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11).

(5) It is the responsibility of the Crematory Authority to see that the identifying metal disc accompanies human remains through the cremation process.

(6) It is 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, or, when no receptacle is used, to the remains, when remains are delivered to the facility and that the number on the identifying metal disc is the number recorded on the final disposition permit. The Cemetery Authority or Crematory Authority must sign the final disposition permit verifying this fact prior to accepting the remains. The Cemetery Authority or Crematory Authority may not accept remains without

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the proper identifying metal disc unless death occurred in a state other than Oregon.

(7) If, when the human remains are delivered to the crematory, cemetery or alternative disposition facility, no metal disc is attached to the receptacle or remains as required, or the disc number does not match the permit number as required, the funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11) must retain responsibility for the proper care and storage of the remains until the correct disc is obtained and ensure it is affixed to the receptacle or remains. If the discrepancy cannot be resolved prior to any scheduled service, the funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11), must take responsibility for notifying the person with the legal right to control final disposition that the disposition is postponed.

(8) If human remains or partial human remains, other than processed cremated remains, are discovered in a presumed unoccupied grave or crypt when opening the grave or crypt for purposes of an interment, the following is the responsibility of the cemetery authority:

(a) The cemetery authority must report the discovery to the Board on a form that has been approved by the Board.

(b) The cemetery authority must exercise diligence under the circumstances to identify the human remains.

(c) If positive identification of the remains is made, and if disinterment is not authorized pursuant to ORS 97.220 or 146.045, the human remains must not be further disturbed, the interment space must be immediately closed and the cemetery authority must update the cemetery records for that grave or crypt to include all relevant information known to the cemetery authority regarding the human remains, as outlined in OAR 830-040-0000 and ORS 97.720.

(d) If the human remains cannot be identified, and if disinterment is not authorized pursuant to ORS 97.220 or 146.045, the human remains must not be further disturbed, the interment space must be immediately closed, and the cemetery records must reflect that the interment space is occupied by unidentified remains, the date of discovery, and indicate that the space is not available for further interments.

(e) If the human remains are positively identified as remains that were originally interred in a grave adjacent to the opened grave but entered the opened grave during excavation or due to the operation of natural forces underground, the cemetery authority must make a reasonable effort to return all soil, human remains, and funerary objects to the interment space from which the material originated. The cemetery authority, if feasible, may then proceed with opening the unoccupied grave for interment.

(9) If processed cremated remains are discovered in a presumed unoccupied grave, crypt or niche when opening the grave, crypt or niche the following is the responsibility of the cemetery authority:

(a) The cemetery authority must report the discovery to the Board on a form that has been approved by the Board.

(b) If the cremated remains are identified, the cemetery authority must use reasonable diligence under the circumstances to determine if such cremated remains were placed with the permission of the cemetery authority. If no such permission was given, the cemetery authority must attempt to deliver the cremated remains to a person within the first applicable listed class in ORS 97.130(2).

(c) If the cremated remains cannot be identified or if the cemetery authority is unable to deliver the cremated remains to a person within a listed class under ORS 97.130(2), the cemetery authority must hold the cremated remains indefinitely and at a minimum, place the cremated remains in a common grave, crypt or niche, and record the specific location of the remains therein.

(d) The cemetery authority must retain a permanent record of the known circumstances of the cremated remains including at a minimum: The original location where the cremated remains were discovered, the steps taken to identify and deliver the cremated remains, and the ultimate re-disposition of the cremated remains.

(10) When a licensee arranges for the scattering of cremated remains, the licensee must include in the licensee's permanent

records the final location of the cremated remains and make the identifying metal disc a part of the licensee's permanent record.

(11) It is the responsibility of the funeral establishment or immediate disposition company licensee handling the disposition of human remains to pay the death certificate filing fee as required in ORS 432.312(1). This fee must 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 is cause for disciplinary action by the Board.

(12) It is the responsibility of each licensed facility to assign a manager for each facility and to notify the Board in writing within 30 days of the assignment. In the case of funeral establishments and immediate disposition companies, the manager must be an Oregon licensed funeral service practitioner.

(13) Upon providing written notification to the Board, a funeral service practitioner may be permitted to manage two funeral establishments or two immediate disposition companies, or one of each. A funeral service practitioner may be authorized by the Board to manage more than two funeral establishments or immediate disposition companies, or a combination of same, upon providing a written request to the Board that describes the basis for the request. The Board may approve the request after consideration of relevant facts or circumstances including, but not limited to, information that the Board may request from the funeral service practitioner.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 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; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12; MCB 1-2013, f. 3-25-13, cert. ef. 3-29-13

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 embalmer apprentice may provide the necessary handling and preparation of human remains, e.g. washing, disinfecting, setting features, embalming, repair and supervising dressing.

Stat. Auth.: ORS 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

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 may:

(a) Have facilities for the care and preparation, processing and handling of human remains before the remains undergo disposition;

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

(c) Offer viewing of human remains.

(2) An Immediate Disposition Company may only arrange for immediate final dispositions without viewing or visitation, or a ceremony with the human remains present except for a graveside service.

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; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0010

Care of Human Remains

(1) All human remains that will be embalmed must 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 human remains are to be held longer than 24 hours, the remains 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 or with communicable diseases.

(3) An embalmer must not embalm 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, the licensee obtaining the oral permission must document the oral permission in writing. Documentation must include the name and phone number of the authorizing agent, relationship to the deceased, date and time oral permission was obtained, and printed name and signature of the licensee or facility representative acquiring the oral authorization. An authorizing agent must confirm the oral permission on a written, signed embalming authorization form as outlined in OAR 830-040-0000(7).

(4) All human remains must undergo final disposition 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 830-010-0155; 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; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0030

Removal and Identification of Human Remains

(1) In accordance with the identifying requirements established in ORS 692.405, the Crematory Authority must, immediately upon taking custody of human remains, verify that the human remains bear a means of identification attached as described in OAR 830-030-0000(4), (5), (6) and (7). A Crematory Authority must 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 must 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 must satisfy itself that identification has been made as described in section (2) of this rule, and thereafter must 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0040

Holding Human Remains for Cremation and Cremation of Human Remains

(1) All persons operating cremation or dissolution equipment must be properly trained on the operation of the equipment. If relevant, each operator must obtain and maintain all required permits or certifications for operating the equipment.

(2) The Crematory Authority must not proceed with disposition of human remains without obtaining written permission of the person who has right to control the disposition of the remains.

(3) When the Crematory Authority is unable to proceed with disposition of the human remains immediately upon taking custody, the Crematory Authority must place the remains in a room that must be marked as "Private" or "Authorized Entry Only".

(4) Human remains held at a crematory that are not embalmed must be held only within a refrigerated facility in accordance with OAR 830-030-0010(1) and 830-030-0060(1).

(5) 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 (7) of this rule.

(6) Immediately prior to being placed within the cremation chamber, the identification of the human remains must be verified by the Crematory Authority staff. For Oregon deaths, confirmation includes verification that the number on the identifying metal disc is the number recorded on the final disposition permit. The identifying metal disc must be attached to the outside of the cremation chamber where it must remain until the cremation process is complete.

(7) A Crematory Authority may only permit the simultaneous cremation of 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. A written authorization exempts the Crematory Authority from all liability for commingling the remains.

Stat. Auth.: ORS 692.320

Stats. Implemented: ORS 692.025, 692.275 & 692.405

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; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

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 must process cremated remains in the following manner:

(1) Upon completion of the cremation, insofar as is possible, all residual of the cremation process must be removed from the cremation chamber and the chamber swept clean. The residual must be placed within a container or tray that will prevent commingling 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 must undergo final processing;

(3) The entire processed cremated remains must be placed in a cremated remains container. The identifying metal disc must be placed on or in the container. The cremated remains must 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 cremated remains will not fit within the dimensions of the cremated remains container, the remainder must 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; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

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 or With Communicable Diseases

(1) Except for transportation of remains from place of death to a licensed facility or other holding facility, transportation of persons who have died of or with communicable diseases specified by the Oregon Health Authority 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 impervious container enclosed in a strong transportation case or in a sound container designed for that that purpose enclosed in a sealed impervious transportation case.

Stat. Auth.: ORS 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2013, f. 3-25-13, cert. ef. 3-29-13

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 ser-

vice 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 Mortuary and Cemetery Board (Board) must 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) Every licensee or agent of a licensed facility must:

(a) Comply with Oregon Revised Statutes relating to death care in ORS Chapters 97, 432 and 692; and comply with the Oregon Public Health Laws;

(b) Implement and follow through with contractual arrangements with the person with the legal right to control final disposition;

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

(d) Supervise apprentices and unlicensed persons to whom tasks regulated by this Board are assigned;

(e) Report conduct violating paragraphs (1)(a) by any death care industry licensee to the Board or the appropriate law enforcement agency;

(f) Respect the dignity and rights of clients, regardless of social or economic status, age, race, religion, gender, gender identity, sexual orientation, national origin, nature of health problems or disability; and

(g) Respect the dignity of dead human remains by appropriate handling, including but not limited to, transporting, refrigerating, embalming, dressing or performing final disposition.

(2) Principals are responsible for the actions of employees related to the operation of a licensed facility;

(3) A licensed embalmer or embalmer apprentice must supervise and be responsible for the required sanitizing of the preparation room or holding room including, but not limited to, embalming tables, work surfaces, sinks, floors, instruments, and disposal of contaminated waste. A preparation room or holding room must be sanitized after the use of the room.

(4) Unacceptable conduct by a licensee or agent of a licensed facility includes:

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

(d) 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;

(e) 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;

(f) Failing to perform death care services for the living or the deceased without discrimination on the basis of social or economic status, age, race, religion, gender, gender identity, sexual orientation, national origin, nature of health problems or disability;

(g) Inaccurate or incomplete record keeping as required by the Board;

(h) Providing false information on facility records including, but not limited to, filling in another person's omissions without consent,

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signing another person's name or on their behalf without authority, recording services or merchandise not provided or that a party did not agree to, or falsifying data;

(i) Altering a facility record including but not limited to changing the words, letters, or numbers from the original document except in the case of a contract modified in accord with the terms of the contract;

(j) Destroying any document related to a death care service that must be preserved by law; or

(k) Directing another person to modify, alter or destroy any document related to death care without legal authority to do so.

(5) No licensee may:

(a) Practice without an appropriate Oregon license/certificate or registration;

(b) Allow another person to use one's license, certificate or registration;

(c) Use another's license, certificate or registration;

(d) Make false or misleading statements or use fraud or misrepresentation in communications with the Board.

(e) Disclose the contents of the licensure examination or solicit, accept or compile information regarding the contents of the examination, before, during or after its administration.

(f) Fail to provide the Board with requested documents or information within the Board's jurisdiction;

(g) Fail to cooperate or answer truthfully or completely inquiries regarding matters within the Board's jurisdiction; or

(h) Have an impairment as defined in ORS 676.303.

Stat. Auth.: ORS 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; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0100

Misleading Business Practices

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

(1) Any sales presentation or practice that conceals or misstates a material fact is considered a misrepresentation in the conduct of doing business.

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

(3) Any use of interment space used for the interment of human remains including cremated remains, other than those of the owner of that space or interment rights thereto, or placement of other materials belonging to a person other than the owner, without the prior written authorization by the owner of such space or interment rights. If the person authorizing such interment or placement of materials represents that he or she has authority to direct the interment or placement, a licensee is not in violation of this rule if, after due diligence, the licensee reasonably believes such person may direct the interment or placement of materials.

(4) 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.

(5) 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' organization or government agency is referred to in any advertisement, sales program or presentation the licensee must include a disclaimer in bold type to the effect that "This facility is not financed or connected in any manner with any government agency or veteran's or other organization".

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

(7) In addition to the provisions of ORS 97.943(8), which provides the purchaser may cancel a revocable prearrangement contract at any time prior to death and receive a full refund including earn-

ings, a licensee must, in a preneed sales contract, include a reasonable period of not less than five business days during which the purchasers may cancel the funeral or cemetery contract for delivered goods that are unused and undamaged, and during which the purchaser may cancel any contract for interment rights.

Stat. Auth.: ORS 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12; MCB 1-2013, f. 3-25-13, cert. ef. 3-29-13

DIVISION 40

FUNERAL ESTABLISHMENTS, IMMEDIATE DISPOSITION COMPANIES, CREMATORIUMS, CEMETERIES, ALTERNATIVE DISPOSITION FACILITIES AND OPERATORS OF SAME

830-040-0000

General Principles

(1) Every licensee is 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, crematoriums and alternative disposition facilities.

(2) Alternative Disposition Facility Authorities must comply with the requirements in this division (division 40) for Crematory Authorities and cremated remains, as if alternative disposition remains are cremated remains, as if the facility is a Crematory Authority, and as if dissolution is cremation.

(3) The Board may refuse to allow use of any facility name that is misleading as to the nature of the facility's purpose.

(4) When a person, firm, partnership or corporation applies to the Board for a facility license, the name on the application must identify the primary activity of the facility. This name must be the registered name with the Board and must also be used as the advertised name of the facility.

(5) Each licensed facility must provide the Board with its true corporate, firm or individual name. Applications for all licensed facilities must be made on the most current application and specify the names of all principals. If the principal is a corporation, the application must include the names of all principals of that corporation.

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

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

(a) Name of decedent and, when applicable, the identifying metal disc number provided by the State Registrar's office;

(b) Date of death;

(c) Name of person arranging for delivery of goods and services and the person authorizing the final disposition;

(d) Name of place of disposition. In cemetery records, the "name of place" means exact location of the interment of human remains by crypt, niche, or by grave, lot and plot;

(e) The name of the funeral service practitioner, cemetery, crematory or alternative disposition facility personnel responsible for making and executing the arrangements pertaining to the delivery of goods and services;

(f) The name of the embalmer and funeral establishment responsible for embalming (applies only to funeral establishment records); and

(g) Written permission for embalming, final disposition and scattering services from the person who has the right to control disposition of the human remains pursuant to ORS 97.130(1) and (2).

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The record of such authorization must include at a minimum: printed name, signature and phone number of the authorizing agent and relationship to the deceased, date and time permission was obtained, and printed name and signature of the licensee or facility representative acquiring the authorization.

(8) In the case of cremation, the licensee responsible for making the cremation arrangements must require the authorizing agent making the cremation arrangements to provide the licensee with a signed statement specifying the action to be taken regarding delivery of the cremated remains. A copy of this statement must be retained in the permanent records of the responsible licensee.

(9) If cremated remains are not retained by the licensee accepting initial responsibility for the remains, the licensee must, upon delivery of such cremated remains to another individual, obtain a signed receipt from that individual. The receipt must include as a minimum: printed name of the individual receiving the cremated remains, the name of the deceased, and the date of delivery of the cremated remains, the receiving individual's signature and the printed name and signature of the licensee or the licensee's representative releasing the cremated remains.

(10) No licensee or operator of a licensed facility or a licensee's agent may:

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

(b) Alter, cancel or obliterate entries in records required by law to be made, maintained or preserved.

(11) After human remains are released to the Cemetery Authority, they must be placed in their designated grave, crypt or vault within 24 hours after taking possession unless exigent circumstances exist. After human remains are released to the Crematory Authority, those remains must be cremated and processed within 48 hours unless exigent circumstances exist. In such exigent circumstances, the facility must notify both the funeral service practitioner responsible for the arrangements and the office of the Board. The licensed facility, funeral service practitioner, or person acting as the funeral service practitioner under ORS Chapter 432, responsible for the arrangements for that deceased, must notify the family of such exigent circumstances and, at the request of the cemetery or crematory, pick up and arrange for proper storage of the remains within 24 hours of notification.

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

(13) Facilities must post their facility license and certificates of apprenticeship in a conspicuous location for public viewing. Other individual licenses will be available for inspection upon request.

(14) Every Cemetery Authority, Crematory Authority and Alternative Disposition Facility Authority must keep the Board's office informed of the location of their permanent records. These records must be made available for random inspections by the Board at any reasonable time.

Stat. Auth.: ORS 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; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-040-0005

Contract Requirements

(1) 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 and regulated by the Oregon Mortuary and Cemetery Board" followed immediately by the current area code and phone number of the Oregon Mortuary and Cemetery Board.

(2) Each licensed facility must ensure that all contracts (at need, prearrangement or preconstruction) for death care goods and services have the registered business name and physical location of the facility printed, in a minimum 10-point font, on the front of the contract.

Stat. Auth.: ORS 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2013, f. 3-25-13, cert. ef. 3-29-13

830-040-0010

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

(1) Facilities must keep their premises sanitary at all times.

(2) Every licensee must accommodate the inspector or investigator of the Board in making his or her inspections unless the licensee can clearly demonstrate that such accommodations will negatively impact the ability to provide scheduled services to consumers or that exigent circumstances exist. In such cases and upon the request of the Board, the licensee must make the reasons known to the Board in writing within ten days following the attempted inspection. When entry is refused under this section, the Board may obtain and execute warrant for inspection.

(3) No licensee or employee of a licensed facility may 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 must provide the Board inspector or investigator a copy of all documents as requested relevant to the inspection or investigation.

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

(6) The Board may inform a licensee of the nature of any complaint against the licensee that is being investigated except when the Board finds that disclosure of the potential violation would impede the effectiveness of the investigation, or that a serious danger to the public health or safety exists.

Stat. Auth.: ORS 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-040-0020

Requirements and Specifications for Preparation Rooms

(1) The preparation room must 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 following is required of preparation and holding rooms:

(a) The interior of the room, all furnishings, and equipment must be finished with materials that are impervious to hazardous materials.

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

(c) The room must be private and the entry door must be locked at all times. The entry door 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 must not be smaller than one inch high.

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

(3) The equipment for preparation rooms must include the following:

(a) An embalming table which provides suitable drainage;

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

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(c) A first aid emergency kit for personnel use which must contain the minimum first aid supplies as specified under the Oregon Safe Employment Act and implementing regulations; and

(d) At least one eye wash station meeting the requirements of the Oregon Safe Employment Act and implementing regulations and any additional stations as may be required under those laws.

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

(5) The preparation room or holding room must be kept in a sanitary condition at all times.

(6) All facilities must have a mortuary or hospital refrigeration unit available which is suitable for the storage of human remains. The refrigeration unit must be in good operating condition and must be maintained in a sanitary condition at all times. The refrigeration must be no more than 45 miles from the licensed facility and must comply with all death care laws.

Stat. Auth.: ORS 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

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 Secretary of State Corporation Division, 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

830-040-0040

Change of Ownership

(1) Prior to a change of ownership, the prospective new owner must apply to the Board for the issuance of a new license on the most current forms provided by the Board in the new owner's name. (Refer to section (4) of this rule). A funeral establishment, immediate disposition company, cemetery, crematory, or alternative disposition facility must not be operated without the appropriate license or certificate of authority to operate. The appropriate fees and disclosures must accompany the application.

(2) All licensed facilities must 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.

(3) All licensed facilities must be licensed by the Board and all applications for licenses must 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 must be signed by such person(s) or in the case of corporations, by a duly authorized officer or agent.

(4) Licenses issued under ORS 692.146 and 692.275 are not transferable. Prior to a change of ownership, sales or purchase agreements pertaining to such must 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 must apply to the Board on the most current 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 must 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.

(5) 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 is considered the ownership of the licensed facility. Any one person who owns a majority of the stock is considered an owner. When percentages of stock ownership change any person moving into a majority position must be required to submit an application on the most current form provided by the Board for change of ownership.

(6) Corporate Licenses:

(a) The corporate licensee must 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 must 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.

(7) 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 must 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.

(8) Co-licensees: 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 will be treated as co-licensees. Corporations, partnerships, individuals, or other legal entities may become co-licensees. If corporations or partnerships become co-licensees, 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; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-040-0050

Advertising

(1) Any licensed facility advertising through any media (including but not limited to telephone books, newspapers, direct mail, bill boards, etc.) must include the licensed facility's registered name and physical address as it appears on the Board's records.

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

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

(5) Any advertisement or marketing materials which intentionally conceals or misstates a material fact is considered misrepresentation

(6) Whenever a funeral establishment states a price for "funeral good" or "funeral service", as these terms are defined in the Federal Trade Commission Funeral Rule, 16 CFR 453.1, on the facility's website, the facility must include a hyperlink to the facility's complete General Price List for funeral goods and services in effect at that time.

Stat. Auth.: ORS 692.160 & 692.320

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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; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12; MCB 1-2013, f. 3-25-13, cert. ef. 3-29-13

830-040-0060

Listing of Employees — Name

(1) 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.

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

Stat. Auth.: ORS 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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

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.

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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

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

(2) Inability to appropriately conduct duties for which license or registration was issued.

(3) Disciplinary action by Oregon or another state against a person or 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.

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

(5) Directly or indirectly causing any person or licensee to be in violation of any section of applicable law related to the death care industry.

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

Stat. Auth.: ORS 692.320 & ORS 97.931

Stats. Implemented: ORS 97.931, 692.180 & 692.320

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; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11

DIVISION 60

DEATH CARE CONSULTANTS LICENSURE, EXAMINATION AND SCOPE OF PRACTICE

830-060-0010

Initial Applications, Background, Examination, License Renewal

(1) Any individual who practices as a death care consultant must be licensed under this chapter.

(a) This chapter does not apply to persons who provide general information on funeral or final disposition arrangements via education classes or workshops, publications (printed or electronic materials) or speaking engagements or to persons who practice law under ORS Chapter 9.160.

(b) The Board shall not take action against an individual for practicing without a death care consultant license based on conduct that occurs before the Board distributes the results of the first death care consultant examination administered by the Board if the individual had submitted a license application before the exam and the individual pays the appropriate fees and sits for the first death care consultant examination administered by the Board.

(2) Application Requirements:

(a) Applicants for licensure as a death care consultant must apply on the most current application form available at the time the applicant submits the application. Applicants may obtain the most current application via the Board's website, at the Board's office, or request the Board send the application by mail.

(b) Applicants for licensure as a death care consultant must pay all appropriate fees established by the Board under OAR 830-020-0040.

(c) Applicants for licensure as a death care consultant are, prior to licensure, required to successfully complete a written examination established by the Board, and receive a score of not less than 75 percent, based on the total number of questions.

(d) Applicants for licensure, prior to completing the written examination for death care consultant licensure, must be at least 18 years old.

(e) All applicants for licensure as a death care consultant licensure must submit to a background investigation pursuant to OAR 830-011-0050 and ORS 692.025(8).

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(3) Examinations:

(a) All applications for death care consultant examination, accompanied by the examination fee established under OAR 830-020-0040, must be received in the office of the Board at least 14 days before the examination is held, or be postmarked before midnight of that date.

(b) The examination fee will not be returned to an applicant/examinee once the examination begins.

(c) If an applicant for a death care consultant's license fails to successfully complete the examination, that person may retake the examination the next time it is given upon payment of the full examination fee. The examination fee must be received in the office of the Board at least 14 days before the examination is given.

(d) The examinations for death care consultants shall be given at least twice each year.

(e) Examination results will be distributed within 30 days after the examination.

(f) Examination questions and answers are not reviewable by examinee pursuant to the Public Records Act, ORS Chapter 162.

(4) Renewing Licenses, Lapsed Licenses

(a) All death care consultant licenses issued will expire two years from the date of licensure unless renewed as provided in this section.

(b) It is the responsibility of the death care consultant to keep the Board's office advised, in writing, of any address changes within 30 days of the change.

(c) At least sixty (60) days prior to the expiration of the death care consultant's two-year license, the Board will mail to the licensed death care consultant a form stating that the renewal fee is due and payable. The renewal notice will be mailed to the most current address filed with the Board by the death care consultant. If the renewal form is not returned and the renewal fee is not paid by the renewal date the license will lapse.

(d) Upon lapse of a death care consultant license, the Board will send notice of the lapse to the most current address filed with the Board by the death care consultant.

(e) The Board may reinstate a lapsed license if the death care consultant 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 692.143, 692.320 & 2009 SB 796

Stats. Implemented: ORS 692.025, 692.143, 692.160 & 692.170

Hist.: MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10

830-060-0020

Death Care Consultant Scope of Practice, Records, Price List, General

(1) A death care consultant may provide information or advice on matters related to funeral or final disposition arrangements including those matters subject to State or Federal regulatory requirements.

(2) Death care consultants may not provide any direct physical assistance with, or supervision of, the handling of the remains unless the individual also holds the proper license or licenses under this chapter and ORS 692.

(3) Death care consultants shall maintain legible permanent records of all transactions or contracts for services provided including, at a minimum, the following information:

(a) The name, address and telephone number of the person acting as the funeral service practitioner

(b) The name, address and telephone number of the person having the right to control final disposition of the remains pursuant to ORS 97.130

(c) The date or dates the consultation services are provided

(d) The physical location or locations the consultation services are provided

(4) Death care consultants shall maintain a general price list of all consultation services offered for sale. The death care consultant must give the general price list to any consumer, for their retention, before entering into discussions about consultation services. The general price list must contain, at a minimum, the following information:

(a) The death care consultant's name and, if applicable, their business name as registered with the Secretary of State Corporation Division

(b) The effective date of the price list

(c) The consultation services offered with their prices

(d) On the first page of the price list, in prominent type, the death care consultant's license number must be printed in the following format:

“Oregon Mortuary and Cemetery Board License No. DC-__ _
-”

(5) A death care consultant may practice under any lawful business title not otherwise protected by law, as long as they indicate proper licensure on the general price list.

(6) Death care consultant permanent records and price lists shall be submitted to the Board upon request for inspection or investigation.

Stat. Auth.: ORS 692.025, 692.143, 692.320, 692.160, 692.170

Stats. Implemented: ORS 692.160

Hist.: MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10