

MORTUARY & CEMETERY BOARD
(Proposed Rule Amendments – to the Secretary of State)
OAR Chapter 830

DIVISION 1

PROCEDURAL RULES

830-001-0000

Model Rules of Procedure and Notice of Proposed Rulemaking

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

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

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

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

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

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

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

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

Stats. Implemented: ORS 183.335 & ORS 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

DIVISION 11

GENERAL INFORMATION

830-011-0000

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) "Identifying Metal Disc". An identifying metal disc is a metal disc, approximately one inch in diameter with a number assigned by the State Registrar's office, each with a

different number, for the purpose of accompanying dead human remains through the disposition process and to serve as a means of permanent identification of those remains.

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Partners.

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

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

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

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

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

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

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

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

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

(43) "Washed". A human remains shall be considered washed and brought to a sanitary condition when the entire surface of the human remains has been bathed with a

disinfectant solution and the mouth, nose, and other body orifices have been washed and when necessary packed with cotton saturated with a disinfectant solution.

Stat.Auth.:ORS 128.414 & ORS 692.320

Stats. Implemented: ORS 692.320 & ORS 128.414

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

830-011-0020

Apprenticeship -- Generally

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

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

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

(4) Apprentice funeral service practitioners must work a minimum of 30 hours per week during normal business hours, excluding 30 days of vacation leave per year, and must assist in the planning of at least 25 funerals or dispositions per year through some form of direct contact with the family or representative of the deceased. Apprentice funeral service practitioners may not be accredited for time served in their funeral service practitioner apprenticeship while being enrolled in a full-time funeral service education program. For the purpose of this chapter, full-time is considered 12 or more credit hours per quarter. If the apprentice is enrolled in 11 or less credit hours per quarter, he/she will be considered a part-time student and could qualify for a funeral service practitioner apprenticeship providing he/she can meet the minimum requirements set forth above. Apprentice funeral service practitioners who are planning to become part-time students

shall submit a letter to the Board clearly explaining their ability to attend classes and still meet the minimum requirements set forth above. Each applicant shall be approved individually based on the submission of all appropriate paperwork, fees and letters of explanation. No credit will be granted for apprenticeship time served unless prior approval by the Board has been granted. A log book shall be kept, on the premises, showing all arrangements made or participated in by the apprentice and be available upon request. The log book shall be retained for a period of one year after completion of the apprenticeship and shall include the following:

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

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

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

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

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

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

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

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

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

(b) For a total of ten years.

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

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

Stat. Auth.: ORS 692.160 & ORS 692.320

Stats. Implemented: ORS 692.045, ORS 692.070, ORS 692.105, ORS 692.130 & 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 830-010-0050; 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

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, ORS 183.545, ORS 692.160 & ORS 692.320

Stats. Implemented: ORS 692.105, ORS 692.045 & ORS 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

DIVISION 20

EXAMINATION AND LICENSURE

830-020-0030

Reciprocal Licensure

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

(a) The reciprocal fee as prescribed by OAR 830-020-0040;

(b) A certified copy of the applicant's birth certificate;

(c) A certified copy of transcripts from a school accredited by an Association of Schools and Colleges demonstrating completion of an Associate's degree or higher degree (for

funeral service practitioner licensure) or proof of passing an accredited course of funeral service education (for embalmer licensure);

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

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

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

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

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

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

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

DIVISION 30

DUTIES OF FUNERAL SERVICE PRACTITIONER
CREMATORY AUTHORITY -- CEMETERY AUTHORITY

830-030-0000

In General

(1) No licensee, operator of a licensed facility, or their agent shall interfere with another licensee, operator of a licensed facility, or their agent who has been legally called to take care of human remains, or perform services relating to the disposition of human remains. The choice of licensed funeral homes, cemeteries, crematories or immediate disposition companies, or licensed person shall be left entirely to the person with the legal right to control final disposition.

(2) It shall be the responsibility of the funeral service practitioner to prepare a certificate of death and file the same with the vital statistics local registrar in the county where the death occurred.

(3) It shall be the responsibility of the funeral service practitioner to see that an identifying metal disc (with a number assigned by the State Registrar's Office) is attached to each receptacle containing human remains. When remains are to be cremated, the identifying metal disc shall be secured to the top of the head end of the casket or alternative container. When remains are going to be buried or entombed, the identifying metal disc shall be placed on the back side of the head end of the casket behind the handle. If there are no handles, the identifying metal disc should be attached in the same general vicinity. The number on the identifying metal disc shall be written on the certificate of death and final disposition permit by the responsible funeral service practitioner.

(4) It shall be the responsibility of the Crematory Authority to see that the identifying metal disc shall accompany remains through the cremation process.

(5) It shall be the responsibility of the Cemetery Authority or Crematory Authority to see that the identifying metal disc is properly secured to each receptacle containing human remains when remains are delivered to the Cemetery Authority or Crematory Authority and that the number on the identifying metal disc is the number recorded on the final disposition permit. The Cemetery Authority or Crematory Authority shall sign the final disposition permit verifying this fact prior to accepting the remains. At no time shall the Cemetery Authority or Crematory Authority accept remains without an identifying metal disc unless death occurred in a state other than Oregon.

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

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

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

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

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

Stats. Implemented: ORS 432.165, ORS 432.307, ORS 692.180 & ORS 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

830-030-0050

Processing of Cremated Remains

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

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

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

(3) The entire processed cremated remains shall be placed in a cremated remains container. The identifying metal disc shall be placed on the cremated remains container. The cremated remains container contents shall not contain any other object unrelated to the cremation process unless specific authorization has been received from the authorizing agent;

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

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

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

Stats. Implemented: ORS 692.025 & ORS 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

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, ORS 183.545 & ORS 692.160

Stats. Implemented: ORS 432.317 & 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 830-010-0160; 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

DIVISION 40

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

830-040-0000

General Principles

(1) Every licensee operating under ORS Chapter 692 shall be responsible for complying with the provisions of ORS Chapter 692 and rules adopted thereunder, and any other law pertaining to the duties and responsibilities of the funeral service practitioner or the operation or licensing of funeral establishments, immediate disposition companies, cemeteries and crematoriums.

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

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

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

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

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

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

- (c) Name of purchaser of professional services and relationship;
 - (d) Name of place wherein remains are to be interred or cremated (in cemetery records the exact location of the interment of remains by crypt, niche, or by grave, lot and plot);
 - (e) The name of the funeral service practitioner or cemetery or crematory personnel responsible for making the arrangements;
 - (f) The name of the embalmer responsible for embalming (does not apply to cemetery or crematorium records); and
 - (g) Written documentation of permission to embalm or cremate a human remains is required from the person who has the right to control disposition of the remains pursuant to ORS 97.130(1) and (2). The record of such authorization shall be made to include as a minimum: The name of the authorizing individual and relationship to the deceased, date and time contacted, phone number and name of the licensee or funeral home representative acquiring the authorization (does not apply to cemetery or crematorium records).
- (7) In the case of cremation, the licensee responsible for making the cremation arrangements shall require the person making the cremation arrangements to provide the licensee with a signed statement specifying the action taken regarding delivery of the cremated remains. A copy of this statement shall be retained by the responsible licensee and be made a part of the permanent record.
- (8) If cremated remains are not retained by the licensee accepting initial responsibility, the licensee shall upon delivery of such cremated remains to another individual, obtain a signed receipt from that individual. The receipt shall state the name of the individual receiving the cremated remains, the name of the deceased, and the date of delivery of such cremated remains. The individual receiving the cremated remains shall sign the receipt. The licensee or the licensee's representative releasing the cremated remains shall also sign the receipt and a copy of that receipt shall remain a part of the permanent record.
- (9) No funeral establishment operator, immediate disposition company operator, cemetery authority or crematory authority shall:
- (a) Fail to preserve permanent records for inspection by the Board; or
 - (b) Alter, cancel or obliterate entries in permanent records for the purpose of falsifying any record required by this chapter to be made, maintained or preserved.
- (10) After human remains are released to the cemetery authority, they shall be placed in their designated grave, crypt or vault within 24 hours after taking possession of the remains unless exigent circumstances exist. After human remains are released to the crematory authority, those remains shall be cremated and processed within 48 hours

unless exigent circumstances exist. In such exigent circumstances, the cemetery/crematory authority shall notify both the funeral service practitioner responsible for the arrangements and the office of the Board. The funeral service practitioner responsible for the arrangements for that deceased shall notify the family of such exigent circumstances.

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

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

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

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

Stats. Implemented: ORS 692.025 & ORS 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

830-040-0040

Change of Ownership

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

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

(2) All licensed facilities shall be licensed by the Board and all applications for licenses shall specify the real and true names of the person(s) who own or have an interest in the

business proposed to be licensed by the Board, and shall be signed by such person(s) or in the case of corporations, by a duly authorized officer or agent.

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

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

(5) Corporate Licenses:

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

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

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

(6) Partnership licensees:

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

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

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

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

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

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

Stats. Implemented: ORS 692.025 & 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 830-010-0215; MCB 1-1993, 4-14-93, cert. ef. 4-16-93; MCB 1-1998, f. & cert. ef. 6-22-98