

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**John Thurston**

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



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Statutory Authority for Promulgating Rules \_\_\_\_\_

Rule Title: \_\_\_\_\_

**Intended Effective Date**

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I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

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## Rule 1

### Arkansas State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

#### Rule Pertaining to Embalmers, Funeral Directors, Funeral Establishments, Crematories, Crematory Retort Operators, and Transport Services

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##### **Section 1. Authority**

This Rule is promulgated pursuant to Ark. Code Ann. § 23-61-1103 and 17-29-301 *et seq.*

##### **Section 2. Purpose**

The purpose of this Rule is to provide requirements that are applicable to embalmers, funeral directors, funeral establishments, mortuary service firms, crematory authorities, crematory retort operators, and transport services.

### **Section 3. Definitions**

1. Advertisement- The publication, dissemination, circulation or placing before the public, or causing directly or indirectly to be made, published, disseminated or placed before the public, whether in print, over the radio, on television, or in any form of digital media: any announcement or statement in a newspaper, magazine, or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, or tag.
2. Apprentice- A person who is registered with the Board and is engaged in learning the practice of embalming or the business of funeral directing, under the instruction and direct personal supervision of a licensed embalmer or funeral director of the State of Arkansas,.
3. Arrangements (make)- to advise, counsel, and/or enter into agreements about specifics for any services in advance of a death, or following a death.
4. Authority Having Jurisdiction (“AHJ”)- The individual, agency, or office in this state or another state that has authority to release dead human bodies for final disposition.
5. Authorizing Agent(s)- A person legally entitled to control the disposition of the remains of a deceased person, as defined by Ark. Code Ann. § 20-17-102. In the case of individuals who have donated their bodies to science, and in which the institution is charged with making arrangements for the final disposition of the deceased, a representative of the institution, if legally authorized, may serve as the authorizing agent.
6. Bait Advertising - Advertising a funeral, or an alternative type of service, which the advertising funeral firm, in truth, does not intend or does not wish to sell. Its purpose is to induce persons “before the time of need,” or “at need,” to visit or call the funeral firm, and then sell them a higher priced service.
7. Board- As used in this Rule, it shall mean the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.
8. Cash Advance or Cash Accommodations - Monies paid to outside parties by the funeral director or the funeral service firm, on behalf of the authorizing agent.
9. Casket- A rigid container in which the dead body is placed for use in religious services or other ceremonies, transportation, or final disposition; usually constructed of wood, metal, or manufactured materials such as plastic, fiberglass, chipboard, pressed paper, paperboard or corrugated paper.
10. Closed Container- Any container in which cremated remains can be placed and closed in a manner so as to be resistant to leakage or spillage of cremated remains or the entrance of foreign materials.

11. Committal Service- The final rite or ceremony.
12. Cremation/Calcination- The Cremation Association of North America defines cremation as, “the mechanical and/or thermal or other dissolution process that reduces human remains to bone fragments.” Cremation includes the processing, and usually includes the pulverization of the bone fragments. This definition covers a variety of technologies that may be applied in order to achieve reduction to bone fragments, including traditional flame-based cremation, calcination, and alkaline hydrolysis.
13. Crematory- The building or portion of a building that houses the retort, and that may house a holding facility for purposes of cremation, and as part of a funeral establishment.
14. Crematory Authority- The legal entity or the authorized representative of the legal entity which is licensed by the Board to operate a crematory and perform cremations.
15. Cremation Chamber- The enclosed space within which the cremation process takes place.
16. Cremation Container- The container in which the human remains are placed in the cremation chamber for a cremation, and which should be required by the crematory authority if the remains are not in a casket. A cremation container should meet substantially all of the following standards:
  1. Be composed of readily combustible materials suitable for cremations;
  2. Be able to be closed in order to provide a complete covering for the human remains;
  3. Be resistant to leakage or spillage;
  4. Be rigid enough for handling with ease; and
  5. Be able to provide protection for the health, safety and personal integrity of crematory personnel.
17. Cremated Remains or Cremains- All human remains recovered after the completion of the cremation process, including pulverization, which leaves only bone fragments reduced to unidentifiable dimensions.
18. Direct Disposition- The disposition of the body of a dead person as quickly as the law will allow without its preparation, except when required by law, and without any attendant religious services or other rites or ceremonies.
19. Direct Personal Supervision- Daily on-site contact whereby the supervisor/mentor, during the apprenticeship period, is able to quickly respond to the needs of the apprentice funeral director and/or embalmer. The supervisor/mentor must be on the premises whenever embalming and/or funeral directing is performed.
20. Disposition Authority- The licensed funeral establishment, cremation authority, or other person or legal entity charged with the disposition of cremated remains.

21. Embalmer- A person required to be licensed to practice the science of embalming under the laws of this State who disinfects or preserves a dead human body, entirely, or in part, by the use of chemical substances, fluids, or gases, in the body, or by introduction of same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities.
22. Embalming- The art of disinfecting or preserving a dead human body entirely, or in part, by the use of chemical substances, fluids, or gases, in the body, or by introduction of same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities.
23. Fetal Death- Death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction, the fetus does not breathe or show any evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Fetal death shall include a “spontaneous fetal death” (sometimes referred to as stillbirth or miscarriage), or an “induced termination of pregnancy” as defined by the Arkansas Department of Health.
24. Fetal Remains- The remains of a fetal death.
25. Final Disposition- After the completion of arrangements, final disposition is defined as earth interment, above ground entombment, delivery directly, or through a licensed transportation service to a crematory for a cremation, delivery directly, or through a licensed transportation service to the proper agency for burial at sea, or delivery directly, or through a licensed transportation service to a medical institution for lawful dissection and experimentation.
26. Funeral Director- A person required to be licensed to practice the business of funeral directing under the laws of this State, who meets the public, displays and sells or offers to sell funeral merchandise or supplies; who plans details of funeral services with members of the family and minister or any other person responsible for such planning, or who directs, is in charge, or apparent charge of, and supervises such service in a funeral home, church or other places; who enters into the making, negotiation or completion of financial arrangements for funerals, including, but not limited to, the sale and selection of funeral supplies, or who uses in connection with the business of funeral directing the words or terms “Funeral Director”, “Undertaker”, “Funeral Counselor”, “Mortician”, or any other word, term or picture or combination thereof when considered in context in which used, from which person using such word, term or picture can be implied to be holding himself out to the public as being engaged in the business of funeral directing.
27. Funeral Establishment or Funeral Home- A place or premise devoted to or used in the shelter, care, preparation, disposition or custody of the body, or for religious services or other rites or ceremonies associated with the final disposition of human dead or maintained for the convenience and comfort of the bereaved and the community for

viewing or other services in connection with the human dead, and as the office or place for carrying on the business of funeral directing.

28. **Funeral Merchandise-** That personal property used in connection with the transportation, funeralization and final disposition of a dead human body, including but not limited to the receptacle into which the body is directly placed. Funeral merchandise does not include mausoleums, crypts, interment receptacles preset in a cemetery, or columbarium niches.
29. **Funeral Service Firm or Funeral Directing-** A person, partnership, enterprise, corporation, or any other form of organization which engages in providing shelter, care and custody of the human dead; in the practice of preparing of the human dead by embalming or other methods for burial or disposition; supervising of the funeral services, makes arrangements, financial or otherwise, for the providing of funeral services or the sale of funeral merchandise, whether for the present or future use; or in general, engages in the practice or performs any functions of funeral directing, embalming or lawful final disposition of the dead.
30. **Graveside Service-** When and where the complete funeral rites or ceremonies are conducted only at graveside. Such rite or ceremony is not what is generally construed as the committal service, which follows the funeral.
31. **Green Burial-** Interment of a dead human body in the soil in a manner that does not inhibit decomposition and allows for the body to recycle naturally. Interment of the body occurs in a biodegradable casket, shroud, or any other biodegradable material. The process typically does not involve embalming. Green burial is a type of final disposition.
32. **Holding Facility-** An area within, adjacent or available to the crematory facility designed for the retention of human remains prior to cremation that shall:
  1. Comply with any applicable public health law;
  2. Preserve the dignity of the human remains;
  3. Recognize the integrity, health, and safety of the crematory authority personnel operating the crematory and;
  4. Be secure from access by the general public.
33. **Human Remains-** The body of a deceased person, or part of a body or limb that has been removed from a living person, including the body, part of the body or limb, in any state of decomposition.
34. **In State-** That period when the body is in the funeral establishment or any other place, for the purpose of a wake, visitation, or viewing whether the casket or receptacle is open or closed and whether the wake, visitation, or viewing is public or private.
35. **Interment Receptacle-** An enclosure into which the casket is placed.

36. Manager- A person who oversees the day to day operations of a licensed funeral establishment. The manager is ultimately responsible for everything that takes place in and around the funeral establishment. The manager's responsibilities shall include supervising apprentices, licensees, employees, and agents who work for the establishment.
37. Memorial Service- A gathering of persons for a program in recognition of a death without the presence of the body of the deceased.
38. Mentor- a licensed funeral director and/or embalmer who has been licensed for at least three (3) years, and who also agrees to directly supervise an apprentice funeral director and/or embalmer.
39. Mortuary Service Establishment- A place or premise devoted to or used in the shelter, care, custody, or preparation of the human dead, but not for the other purposes identified in the definition of a Funeral Establishment, except at the request of, and as the agent of, a licensed funeral establishment or its representative.
40. Mortuary Service Firm- A person, partnership, enterprise, corporation, or any other form of organization which engages in providing shelter, care, custody, or preparation of the human dead, or providing other services and/or funeral merchandise at the request of, and as the agent of, a licensed funeral establishment or its representative.
41. Niche- A compartment or cubicle for the memorialization or permanent placement of an urn containing cremated remains.
42. OSHA- As used in this Rule, the acronym for the Occupational Safety and Health Administration.
43. Scattering Area- A designated area for the scattering of cremated remains.
44. Temporary Container- A a receptacle for cremated remains, usually composed of cardboard, plastic, or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains, or the entrance of foreign material. A temporary container is a single container of sufficient size designed to hold the cremated remains until an urn or other permanent container is acquired, or until the cremated remains are scattered or buried.
45. Transport Driver- A person employed by a transport service firm for the purpose of driving vehicles that transport dead human remains.
46. Transport Service Firm- Any person, partnership, enterprise, corporation, association, society, other legal entity, or other form of organization, that engages in providing transportation of the human dead for hire.
47. Urn- A receptacle designed to permanently encase cremated remains.

#### **Section 4. Licensee in Charge of Funeral Directing, Embalming, and Cremating**

A. Every funeral conducted within the State of Arkansas must be under the personal supervision, direction, and charge of a Type A funeral establishment and a licensed Arkansas funeral director. To conduct a funeral shall require the direct personal supervision of a licensed Arkansas funeral director until final disposition is completed. In the case of earth interment and above ground entombment, the funeral director shall be onsite supervising all matters until completion of the earth interment or above ground entombment. In cases of earth interment, the funeral director shall be present until the person who is responsible for closing the grave has completed the process of closing the grave. When the authorizing agent has contracted directly with the cemetery to carry out these procedures, regardless of whether the cemetery is private, commercial, or governmental, the funeral director shall be on site supervising all matters until the conclusion of the funeral service only.

B. The embalming of a dead human body shall only be performed by a licensed Arkansas embalmer, an Arkansas registered embalmer apprentice, or a student currently enrolled in an accredited mortuary college. All embalming requires the physical presence and/or direct personal supervision of a licensed embalmer. Registered embalmer apprentices may do embalming procedures under the direct personal supervision of a licensed embalmer.

#### **Section 5. Licensee in Charge of All Care and Disposition of Human Dead**

A. Any person, partnership, enterprise, corporation or any other form of organization holding himself, herself or itself out to be in the business of the care and/or disposition of the human dead in this State shall be required to hold valid licenses issued by the Board. The entity shall also comply with the Rules of the Board pertaining to said care and disposition.

B. Any establishment that offers the online sale of funeral or final disposition services in the State of Arkansas must hold the required licenses issued by the Board. Establishments that offer online sales of services shall have a physical location in the State of Arkansas.

#### **Section 6. Funeral Establishments**

A. Four types of funeral establishment licenses shall be issued by the Board. These establishment licenses are:

1. Funeral Establishment Type A-Full-Service Funeral Firm.
- (a) 2. Funeral Establishment Type B-Mortuary Service Firm
- (b) 3. Funeral Establishment Type C-Crematory Authority
- (c) 4. Funeral Establishment Type D-Transport Service Firm

B. All establishment renewals are due and payable on or before December 31st.

B. Funeral Establishment Type A- Full-Service Funeral Firm



1. Applicants seeking Type A licensure must meet the following minimum requirements:

a. The application shall be completed on forms provided by the Board and accompanied by the required fees. Applications are available on the Board's website, or they can be obtained by contacting the Board's office;

b. The application must be received by Board staff at least twenty (20) business days before the Board's next regularly scheduled meeting;

c. The manager and owner of the establishment shall appear at the Board meeting for discussion of the license application;

d. The application must be accompanied by proof of a minimum of one million dollars (\$1,000,000) of general liability insurance coverage;

e. The application must be accompanied by a copy of the certificate of liability insurance;

f. The application must be accompanied by the Embalmer/Mortuary Service Acceptance Form;

g. The application must be accompanied by the Manager Acceptance Form; and

h. The establishment shall be inspected by a representative of the Board prior to initial licensure.

2. The Board shall grant or deny each application for a funeral establishment license Type A under the provisions of this section, after the application is reviewed at the meeting in which the application was presented.

3. Each establishment Type A shall have at least one (1) full-time licensed funeral director, who has been licensed for at least five (5) years. The establishment shall employ licensed staff so that services are competently provided to the public. No licensed funeral director shall serve as the manager of more than one (1) funeral establishment. However, it is permissible for a manager to serve as manager of two locations of the same establishment, as long as the secondary location is a branch location of the establishment which employs the manager. The manager shall reside within fifty (50) miles of each location.

4. The name of the manager, embalmer, and/or mortuary service, primary crematory authority used, and owner of each funeral establishment shall be reported annually on forms provided by the Board.

5. If the funeral director serving as the manager of a funeral establishment shall cease serving as manager, or leave the employment of the establishment for any reason, the establishment shall notify the Board, on forms provided by the Board, of the management change within three (3) business days, and of his or her successor within fifteen (15) business days.

6. The manager of the funeral establishment Type A shall be responsible for compliance with the following requirements:

- a. All price lists, statements of funeral goods and services, and any documents or publications including advertising, shall be consistent with the name of each funeral establishment location on file with the Board.
- b. Type A establishments shall maintain and make available for inspection, true and accurate copies of the price lists for a minimum of one (1) calendar year after the date of distribution to customers, as required by the Federal Trade Commission (“FTC”).
- c. Every licensed funeral director shall give the consumer a copy of the General Price List as required by the FTC and pursuant to 16 C.F.R. § 453.2, prior to discussing any funeral arrangements.
- d. Every licensed funeral director responsible for providing funeral services or arranging for the delivery of any funeral merchandise, shall give or cause to be given to the person(s) making such arrangements, a written, itemized and signed statement of charges for the funeral merchandise and funeral services selected.
- e. At the time of need, a written, itemized and signed statement of charges shall be completed and given to the person(s) making the at-need arrangements. The statement of charges shall be completed prior to the rendering of the funeral services, or the providing of merchandise. At a minimum, the statement shall contain the following:
  - (1) The name, signature, and license number of the funeral director responsible for making the arrangements, or providing the funeral merchandise;
  - (2) The name and address of the licensed establishment in charge of providing the merchandise or funeral services;
  - (3) The name, address, signature, and relationship to the deceased, of the person making the at-need arrangements (the relationship should be described as kinship or otherwise);
  - (4) The date of the signatures;
  - (5) The name of the deceased;
  - (6) The date of death;
  - (7) The price of the service(s) selected and the price of any supplemental items;
  - (8) The price of the merchandise selected, including a detailed description of the casket and outer burial container, if so selected;
  - (9) The amount and description of all cash advance items; and
  - (10) The method of payment.

7. The Type A establishment shall be operated by a sole owner, a partnership, a limited liability partnership, a limited partnership, a limited liability company, a subsidiary of a corporation, or by a corporation chartered in the State of Arkansas.

8. Each Type A establishment which contains a preparation room shall meet the following minimum requirements;

a. All embalming performed therein must be performed by or under the direct personal supervision of a licensed embalmer.

b. Construction. The room must be constructed with such materials and finished in such a way that the room and the contents thereof may be cleaned and disinfected. The room must be of sufficient size and dimension to accommodate an embalming table. The door to the room must contain a functional lock, to prevent unauthorized entrance to the room. The room must also contain a sanitary floor, walls, and ceiling, and adequate sanitary drainage and disposal facilities, including hot and cold running water. The room must also comply with the sanitary standards and disposal requirements as prescribed by the Arkansas Department of Health and OSHA to prevent the spread of contagious, infectious or communicable diseases. The room shall also include an instrument table, cabinetry, and shelves, as necessary. Only equipment used in the preparation of dead human bodies, shall be stored in the preparation room.

c. Universal Precautions. In handling and preparing dead human bodies for final disposition, any person who comes in direct contact with an unembalmed dead human body or who enters a room where dead human bodies are embalmed, shall use universal precautions and otherwise exercise all reasonable precautions to minimize the risk of transmitting any communicable disease from the body. All persons present in the preparation and embalming room while a body is being prepared for final disposition must be attired in accordance with all applicable state and federal regulations regarding the control of infectious disease and workplace health and safety.

d. Ventilation. The preparation room shall be separately heated and cooled from the rest of the establishment. The preparation room must be properly ventilated with a ventilation system that provides for an adequate intake of fresh air. The preparation room shall also provide an exhaust system with all fumes exiting to the outside atmosphere. This ventilation system must provide adequate air exchanges per hour to maintain adequate formaldehyde levels in accordance with the OSHA Formaldehyde Standard found at 29 C.F.R. § 1910.1048. The construction must be such that odors from the preparation room cannot enter the rest of the establishment.

e. Preparation procedures; access to the preparation room. The preparation of a dead human body for final disposition shall be performed in privacy. No person shall be permitted to be present in the preparation room while a dead human body is being embalmed, washed, or otherwise prepared for final disposition, except:

- (1) Licensed embalmers;
- (2) Registered embalmer apprentices or students;

- duties;
- (3) Public officials or their representatives in the discharge of their official duties;
  - (4) Licensed medical personnel; and
  - (5) Employees of the funeral establishment, whether licensed or not.

9. Type A establishments may work with family and friends of the deceased to allow for their participation in washing and dressing of the body in a private location. It is permissible to allow the family into the preparation room for this limited purpose.

10. Refrigeration or embalming required. A dead human body must be refrigerated, or packed in dry ice, or it must be embalmed by a licensed embalmer or registered embalmer apprentice or a practicum or clinical student, in the following circumstances:

- a. If the body will be transported by public transportation, provided the carrier allows the body to be packed in dry ice;
- b. If final disposition will not occur within twenty-four (24) to forty-eight (48) hours after death or release of the body by a competent authority with jurisdiction over the body, or the body will be lawfully stored for final disposition in the future;
- c. If the body will be publicly viewed;
- d. If ordered by the director of health for the control of infectious disease and the protection of public health; and
- e. If a body will be released to a medical institution for lawful dissection and experimentation, then it must be packed in dry ice if it is not possible to embalm the body.

11. Equipment. The preparation room shall contain sufficient supplies and equipment for normal operation. Nothing in this subsection shall require embalming chemicals to be stored in the preparation room. No excess equipment shall be stored in the preparation room. The only items and equipment allowed to be maintained in the preparation room are the items and equipment necessary for preparing dead human bodies. There shall be storage shelves or cabinetry for all supplies, instruments, and equipment.

12. Visibility. All outside openings of the preparation room shall be covered such that the coverings prohibit viewing the interior of the room from the outside.

13. First call log. Each location of a funeral establishment Type A shall maintain a log book on the premises. The log book must be available at all times for inspection by the Board. The log book shall list the name of each deceased person received at the location, including the following:

- a. Date and time the remains were received;
- b. Any personal property that accompanied the remains;
- c. The name and signature of the person making the removal;
- d. The name and signature of the licensed embalmer who performed the embalming. Any registered apprentice embalmer should also sign in cases where the apprentice assisted; and

- e. The name and signature of the agent or employee of the receiving Type A establishment.

14. Identification. Each location of a funeral establishment Type A shall properly attach to the body of the deceased, an identification tag to each deceased received into the establishment. This identification tag must continuously remain on the decedent until the completion of final disposition. Each deceased must be identified by a family member either by viewing or by submission of a photograph of the deceased.

15. Embalmer's case report. Each funeral establishment Type A that conducts embalming shall maintain an embalmer's case report for each case embalmed in the establishment. The case report shall be signed by the licensed embalmer and registered apprentice embalmer if such apprentice assisted. The case report shall be maintained on file for each case and it shall become a part of the death record.

16. Training. All personnel of a funeral establishment Type A, who come in contact with a dead human body, including making removals, transporting, cremating, embalming, and any other preparation of the body, must comply with all required Arkansas Department of Health and OSHA training, requirements, and standards.

17. Each funeral establishment Type A must have at least three (3) adult size caskets, or nine (9) quarter cuts, or twelve (12) 1/8 cuts, or a combination of both, and the caskets and/or cuts may be in conjunction with electronic and photo presentation. For purposes of this section, a casket selection room is not required to be a separate room for the sole purpose of displaying caskets. In addition to the three (3) adult size caskets, establishments may also have virtual display rooms, cut-outs, casket catalogs, and any other forms of various displays. A branch establishment, within forty (40) miles, without an area available for display, may use electronic display only.

18. When an establishment is sold or changes ownership, the establishment shall notify the Board in writing, at least thirty (30) days prior to the sale or change of ownership. In cases where the name of the establishment will not change, the license then in force and effect shall be honored for the new owner, until that license expires. If the new owner desires to change the name of the funeral establishment prior to the license expiration, then the owner shall apply for a license for the establishment to be issued in the new name.

19. When an establishment closes, the Board shall be immediately notified in writing. The license in force at the time of closure shall be returned to the Board office. within seven (7) days.

20. If an establishment license is revoked, that license must be returned to the Board office within seven (7) days of receipt of the Board's order revoking the license.

21. Renewal of all funeral establishment licenses Type A must be made on or before December 31st of each year, and must be accompanied by the annual renewal fee. Licenses not renewed by December 31st of any year shall be considered delinquent and may be grounds for

disciplinary action by the Board. The Arkansas Department of Health will be notified to decline death certificates filed by an establishment whose license has expired.

22. Each funeral establishment using an embalmer who is not employed by the establishment must file with the Board, within thirty (30) days of the embalmer performing embalming at the establishment, a notarized statement signed by the embalmer stating that his or her services are available to the establishment at all times and within a reasonable time after death occurs, not to exceed six (6) hours. This statement shall be submitted on a form provided by the Board. The funeral establishment shall obtain express permission prior to embalming, and written permission before or after embalming.

23. Mobile homes, or mobile units, are prohibited for use as a funeral establishment firm or as a branch thereof. No mobile home or mobile unit shall be used in the performance of any function or service of a funeral establishment firm or branch thereof, except in the case of an emergency as prescribed by the Board. Mobile homes, modular units, manufactured homes, and similar mobile units, may be used on a temporary basis if approved by the Board, and the establishment may be granted a replacement license if the Board deems appropriate.

24. The licensed funeral director, who manages and supervises the funeral establishment, may hire such employees as may be needed to assist the funeral director in providing the services of the business of funeral directing. The manager is responsible for the supervision of all work performed by the establishment's agents and employees. Disciplinary action may be taken against a manager and funeral establishment because of the acts of the establishment's agents or employees which violate the laws or the Rules that govern the license.

25. Each funeral establishment Type A shall maintain current registration and the minimum insurance coverages on all its vehicles as required by the State of Arkansas.

26. Each funeral establishment Type A shall be required to carry a general business policy or a general business liability policy of no less than one million dollars (\$1,000,000). A certificate of coverage shall be provided to the Board at initial licensure and upon each renewal of the insurance policy. When possible, the board should be listed as a certificate holder. The Board should be notified of each renewal and any cancellation for any reason.

27. A licensed funeral director or funeral establishment may employ or use the services of non-licensed persons to sell pre-need, pre-arranged or pre-financed funerals and/or funeral merchandise. A licensed funeral director or funeral establishment will be held accountable for the actions of all sales personnel. Such personnel are specifically prohibited from engaging in the following actions:

- a. Making misrepresentations to potential purchasers of funeral service merchandise;
- b. Placing or causing to be placed, false or misleading advertising; and
- c. Making false statements about funeral establishments, funeral directors, or embalmers not associated with the establishment.

## C. Funeral Establishments Type B- Mortuary Service Firms

1. A mortuary service firm is an agent of a Type A establishment and as such does not make arrangements with the public. Applicants seeking Type B licensure must meet the following minimum requirements:

- a. The application shall be completed on forms provided by the Board and be accompanied by the required fees. Applications are available on the Board's website, or they can be obtained by contacting the Board's office.
- b. The application must be received by the Board at least twenty (20) business days before the Board's next regularly scheduled meeting.
- c. The manager and owner of the establishment shall appear at the Board meeting for discussion of the license application.
- d. The application must be accompanied by proof of a minimum of one million dollars (\$1,000,000) of general liability insurance coverage;
- e. The application must state that the mortuary service firm is under the management and supervision of a dually licensed funeral director and embalmer who has been licensed as such for at least five (5) years.

2. The name of the manager of the mortuary service firm shall be reported annually on forms provided by the Board.

3. If the funeral director and embalmer serving as the manager of the mortuary service firm shall no longer serve as manager or leave the employment of the firm for any reason, the mortuary service firm shall notify the Board of the management change within three (3) business days, and of his or her successor within fifteen (15) business days. The notification shall be made on forms provided by the Board.

4. All embalming performed in the mortuary service firm's establishment must be performed by or under the direct personal supervision of an Arkansas licensed embalmer.

5. Each funeral establishment Type B shall be operated by a sole owner, a partnership, a limited liability partnership, a limited partnership, a limited liability company, a subsidiary of a corporation, or by a corporation chartered in the State of Arkansas.

6. The funeral establishment Type B shall be inspected by a representative of the Board, prior to initial licensure.

### 7. Preparation Room

a. Construction. The room must be constructed with such materials and finished in such a way that the room and the contents thereof may be cleaned and disinfected. The room must be of sufficient size and dimension to accommodate an embalming table. The door to the room must contain a functional lock, prevent unauthorized entrance to the room. The room must also contain a sanitary floor, walls, and ceiling, and adequate sanitary drainage and disposal facilities, including hot and cold running water. The room must also comply with the sanitary

standards and disposal requirements as prescribed by the Arkansas Department of Health and OSHA to prevent the spread of contagious, infectious or communicable diseases. The room shall also include an instrument table, cabinetry, and shelves, as necessary. The room shall not have a passageway available for public use. Only equipment used in the preparation of dead human bodies, shall be stored in the preparation room.

b. Universal Precautions. In handling and preparing dead human bodies for final disposition, any person who comes in direct contact with an unembalmed dead human body or who enters a room where dead human bodies are embalmed, shall use universal precautions and otherwise exercise all reasonable precautions to minimize the risk of transmitting any communicable disease from the body. All persons present in the preparation and embalming room while a body is being prepared for final disposition must be attired in accordance with all applicable state and federal regulations regarding the control of infectious disease and workplace health and safety.

c. Ventilation. The preparation room shall be heated and cooled separately from the rest of the establishment. The preparation room must be properly ventilated with a ventilation system that provides for an adequate intake of fresh air. The preparation room shall also provide an exhaust system with all fumes exiting to the outside atmosphere. This ventilation system must provide adequate air exchanges per hour to maintain adequate formaldehyde levels in accordance with the OSHA Formaldehyde Standard found at 29 C.F.R. § 1910.1048. The construction must be such that odors from the preparation room cannot enter the rest of the establishment.

d. Preparation Procedures, Access to Preparation Room. The preparation of a dead human body for final disposition shall be performed in privacy. No person shall be permitted to be present in the preparation room while a dead human body is being embalmed, washed, or otherwise prepared for final disposition, except:

- (1) Licensed embalmers;
- (2) Registered apprentices or students;
- (3) Public officials or their representatives, in the discharge of their official duties;
- (4) Licensed medical personnel; and
- (5) Employees of the establishment, whether licensed or not.

a. Equipment. The preparation room shall contain sufficient supplies and equipment for normal operation. Nothing in this subsection shall require embalming chemicals to be stored in the preparation room. No excess equipment shall be stored in the preparation room. The only items and equipment allowed to be maintained in the preparation room are those items and equipment necessary for preparing dead human bodies. There shall be storage shelves or cabinetry for all supplies, instruments, and equipment.

b. Visibility. All outside openings of the preparation room shall be covered such that the coverings prohibit viewing the interior of the room from the outside.



8. First Call Log. Each location of a funeral establishment Type B shall maintain a log book on the premises. The book must be available at all times for inspection by the Board. The log book shall list the name of each deceased person received at the location, including the following:
  - (a) The date and time the remains were received;
  - (b) Any personal property that accompanied the remains;
  - (c) The name and signature of the person delivering the remains and the establishment or entity they represent;
  - (d) The name and signature of the agent or employee of the receiving establishment, and the name of the establishment the remains are being released to; and
  - (e) The name and signature of the licensed embalmer who performed the embalming. The registered apprentice embalmer should also sign in cases where an apprentice assisted.
9. Embalmer's Case Report. Each funeral establishment Type B shall maintain an embalmer's case report for each case embalmed in the firm. The case report shall be signed by the licensed embalmer and the registered embalmer apprentice if one assisted. The case report shall be maintained on file for each case and shall become part of the death record.
10. Training. All mortuary service personnel who come in direct contact with a dead human body, including making removals, transporting, embalming, and any other preparation of the body, must comply with all required Arkansas Department of Health and OSHA training, requirements, and standards.
11. When a mortuary service firm is sold or changes ownership, the firm shall notify the Board in writing, at least thirty (30) days prior to the sale or change of ownership. In cases where the name of the firm will not change, the license then in force and effect shall be honored, for the new owner, until that license expires. If the new owner desires to change the name of the firm prior to the license expiration, then the owner shall apply for a license for the firm to be issued in the new name.
12. When a mortuary service firm closes, the Board shall be notified, in writing, within seven (7) days of the date of closure. The license in force at the time of closure shall be returned to the Board office.
13. If the mortuary service firm's license is revoked, that license must be returned to the Board office within seven (7) days of receipt of the Board's order revoking the license.
14. Each funeral establishment Type B shall maintain the current registration and minimum insurance coverages on all of its vehicles, as required by the State of Arkansas.
15. Each funeral establishment Type B is required to maintain a general business policy or a general liability policy of no less than one million dollars (\$1,000,000).

16. A certificate of liability insurance shall be provided to the Board at the time of initial licensure and upon each renewal of the insurance policy. When possible, the Board should be listed as a certificate holder. The Board should also be notified of each renewal and any cancellation for any reason.
17. The Board shall grant or deny each application for a mortuary service firm under the provisions of this section after the application is reviewed at the meeting in which it was presented. No applicant may operate a mortuary service firm until a license has been issued by the Board.
18. A mortuary service firm license shall be issued under this section upon application and after inspection of the firm. The applicant must have successfully passed inspection prior to the application being discussed at the Board's next regularly scheduled meeting.
19. Renewal of all mortuary service firm licenses Type B must be made on or before December 31st of each year and must be accompanied by the annual renewal fee.
20. Licenses not renewed by December 31st of any year shall be considered delinquent and may be grounds for disciplinary action by the Board.
21. Each mortuary service firm using an embalmer who is not employed by the mortuary service firm, must file with the Board a notarized statement signed by the embalmer, stating that his or her services are available to the firm at all times within a reasonable time after death occurs, and not to exceed six (6) hours. Embalmers shall obtain express permission prior to embalming, and written permission before or after embalming.
22. Mobile homes or mobile units are prohibited for use as a mortuary service firm or branch thereof. No mobile home or mobile unit shall be used in the performance of any function or service of a mortuary service firm or branch thereof, except in the case of an emergency as prescribed by the Board. Mobile homes, modular units, manufactured homes and similar mobile units may be used on a temporary basis if approved by the Board, and the establishment may be granted a replacement license if the Board deems appropriate.
23. The licensed funeral director and embalmer who manages and supervises the mortuary service firm, may hire such employees as may be needed to assist the manager in competently providing services. Disciplinary action may be taken against a manager or a mortuary service firm because of the acts of their agents or employees which violate the laws and Rules governing the licenses.
24. Except at the request of, and as the agent of a licensed funeral establishment or its representative, a mortuary service firm is prohibited from providing funeral services and funeral merchandise, other than providing shelter, care, custody and preparation of the human dead, or any type of services including direct disposition or the practice for preparing of the human dead by embalming or other methods.

25. A funeral establishment TypeB mortuary service firm shall not be required to have a selection room or display any caskets.

#### D. Funeral Establishment Type C- Crematory

1. A crematory is an agent of a Type A establishment and as such does not make arrangements with the public.
2. Any person doing business in this state, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity may erect, maintain and operate a crematory in this state and provide the necessary appliances and facilities for the cremation of human remains in accordance with the provisions of this Rule.
3. No person shall construct a new crematory or modify an existing structure into a crematory, unless the person has obtained a crematory construction permit.
4. The requirements for obtaining a crematory construction permit are as follows:
  - a. Notice shall be published in a newspaper of general circulation in the county where the crematorium is proposed to be constructed. The notice must include language that states that the applicant intends to construct a crematorium at a designated location. This notice may be submitted to Board staff prior to publishing;
  - b. The notice shall be published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before submitting the application to the Board; and
  - c. The person must invite members of the public to submit written protest to the Board of the construction of the proposed crematorium.
5. The application for the crematory construction permit:
  - a. Shall be made in writing on forms provided by the Board;
  - b. Be accompanied by the required crematory construction permit application fee;
  - c. Be accompanied by proof of publication of notice; and
  - d. Be accompanied by a copy of the permit issued by the Arkansas Department of Environmental Quality.
6. In the event the Board receives written protest to the application for construction of a crematorium, the Board shall:
  - a. Schedule a public hearing on the application;
  - b. Direct the applicant to publish notice of the hearing in a newspaper having general circulation within the county where the crematorium is proposed to be constructed;
  - c. Direct the applicant to publish the notice on the Sunday and the Wednesday no more than fifteen (15) days nor less than seven (7) days before the hearing; and

- d. Ensure the public hearing is held in the city or county in which the proposed crematorium is to be located.
7. The Board may:
  - a. Require members of the public, prior to the hearing, to notify the Board of their intent to comment publicly at the hearing;
  - b. Require members of the public who comment publicly at the hearing to sign in prior to the commencement of the hearing;
  - c. Call upon public commenters in the order in which they have signed in; and
  - d. Give each public commenter a finite number of minutes in which to speak.
8. The board will review the public comments given at the hearing at its next regularly scheduled meeting. The Board will then make a determination as to whether to grant or deny the crematory construction permit.
9. A crematory may be constructed on or adjacent to any cemetery, on or adjacent to any funeral establishment that is zoned commercial or industrial, or on any other location consistent with local zoning regulations.
10. The Board may issue a temporary certificate of authorization to operate a crematory to any applicant whose application for a permit to construct a crematorium has been approved and whose crematory has completed construction. Before the temporary certificate will be issued, the following criteria shall be met:
  - a. The installed crematory has passed inspection by a representative of the Board;
  - b. The first operation of the crematory was successful; and
  - c. The first operation of the crematory was witnessed by a representative of the Board.
11. The temporary certificate of authorization shall be valid for a period of up to ninety (90) days or until the Board approves the Application for Crematory license (Type C) at the first regularly scheduled Board meeting after the Board representative's confirmation of successful installation and operation.
12. Application for licensure as a crematory authority shall be on forms provided by the Board. Applications are available from the Board's website, or they can be obtained by contacting the Board's office. At a minimum, the requirements for application are as follows:
  - a. The application shall be in writing and shall contain the name of the applicant, the address and location of the crematory, a description of the type of structure and equipment to be used in the operation of the crematory, proof of liability insurance in the amount of one million dollars (\$1,000,000), and any further information as the Board may reasonably require;
  - b. The application shall be submitted to the Board at least twenty (20) business days before the next regularly scheduled Board meeting;

- c. The owner of the establishment is required to appear at the meeting for the discussion of the license application;
- d. After the temporary certificate of authorization has been issued, initial operation of the crematory shall not occur until the Board: has received the application for licensure at least twenty (20) business days before the initial operation, has examined the premises and structure, and has noted the retort to function properly;
- e. A license shall be issued to the crematory authority if the Board determines that the applicant meets all requirements of this Rule, that the retort operator has been trained by the manufacturer, and after the Board's examination of the application and inspection report;
- f. All advertisements shall be consistent with the name of each crematory location on file with the Board; and
- g. The air quality control certificate shall be submitted with the application for licensure, and upon renewal each year.

13. Each funeral establishment Type C shall have a full time licensed funeral director to serve as manager.

14. When a crematory authority is sold or changes ownership, the crematory authority shall notify the Board in writing, at least thirty (30) days prior to the sale or change of ownership. In cases where the name of the crematory authority will not change, the license then in force and effect shall be honored, for the new owner, until that license expires. If the new owner decides to change the name of the crematory authority prior to the license expiration, then the owner shall apply for a license for the crematory authority to be issued in the new name.

15. When a crematory authority closes, the Board shall be notified, in writing, within seven (7) days of the date of closure. The license in force at the time of closure shall be returned to the Board office.

16. If a crematory authority license is revoked, the license must be returned to the Board office within seven (7) days of receipt of the Board's order revoking the license.

17. No person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity shall cremate any human remains except in a crematory licensed for this express purpose and under the limitations provided in this Rule.

18. No cremations of the bodies of deceased persons shall be performed except by a crematory authority holding a valid license issued by the Board.

19. Renewal of all funeral establishments Type C must be made on or before December 31<sup>st</sup> of each year, and the renewal form must be accompanied by the annual renewal fee. Licenses not renewed by December 31<sup>st</sup> of any year shall be considered delinquent and may be grounds for disciplinary action by the Board. A certificate of coverage shall be provided to the Board upon renewal of the license and upon each renewal of the insurance policy. When possible, the Board should be listed as a certificate holder. The Board should be notified of each renewal and cancellation for any reason.

20. Hospitals licensed by the Arkansas Department of Health may operate a facility that incinerates surgical waste, human body parts that have been surgically removed, or fetal remains with the permission of the next of kin, without an additional license issued by the Board and without the assistance of a licensed funeral establishment unless:

- a. They are holding themselves out to the public to be a licensed crematory authority;
- b. They offer cremation services to the public for the bodies of deceased persons except for the instance listed in this subsection.

E. Crematory Authority- Cremation Authorization and Record Keeping

1. Except as otherwise provided in this section, a crematory authority shall not cremate human remains until it has received:

- a. A cremation authorization form signed by an authorizing agent and which identifies the funeral director arranging the cremation. The cremation authorization form shall be provided by the crematory authority and shall contain the following information:

(1)The identity of the human remains. Permissible methods of identifying the remains include: verifying the name on the hospital bracelet or anklet with the fact sheet, verifying the name on the funeral home bracelet, a photo of the deceased, confirmation of the deceased's identity by the authorizing agent, proof of identity as submitted to the crematory authority directly by law enforcement or by any other appropriate legal or governmental authority;

(2) The name of the authorizing agent and the relationship between the authorizing agent and the deceased;

(3) Authorization for the crematory authority to cremate the human remains;

(4) Cremation Final Disposition Rights Form, or a representation that the authorizing agent is unaware of any objection to the human remains being cremated by any person who has a right to control the disposition of the human remains; and

(5) The name of the person authorized to claim the remains from the crematory authority.

- b. A completed and executed burial transit permit or other disposition authorization signed by the authority having jurisdiction to authorize final disposition of a dead human body, as provided in the laws of the state or territory where death occurred, indicating that the human remains are to be cremated;

c. A death certificate, fetal death certificate, or other disposition authorization signed by the authority having jurisdiction to authorize final disposition of a dead human body in the state, territory, or country where death occurred ; and

d. Any other documentation required by any county or municipality.

2. If an authorizing agent is not available to execute the cremation authorization form, that person may delegate that authority to another person in writing, or, if located outside of the area, by sending the crematory authority a written communication that contains the name, address, and relationship of the sender to the deceased, and the name and address of the individual to whom authority is delegated, indemnifying the delegated individual and the crematory authority from all liability concerning the cremation. Upon receipt of the written communication, the crematory authority shall allow this individual to serve as the authorizing agent and execute the cremation authorization form, and the crematory authority shall be entitled to rely upon the cremation authorization form.

3. A crematory authority may accept an electronic copy of the cremation authorization form, including the electronic signature of the authorizing agent.

4. A crematory authority shall maintain the necessary records as set out in this Rule.

5. Upon receipt of the human remains, the crematory authority shall furnish to the person who delivers such human remains, a receipt signed by both the crematory authority and the person who delivers the human remains showing:

a. The date of delivery ;

b. The name of the person from whom the human remains were received and that person's employer ;

c. The name of the person who received the human remains on behalf of the crematory authority ;

d. The name and license number of the crematory authority ; and

e. The name of the deceased.

6. The crematory authority shall retain a copy of this receipt.

7. A crematory authority shall retain at its place of business a record of each cremation which takes place at its facility, which record shall contain the information provided for in Subsection E, herein. The record of cremation shall also include the date that the cremation and distribution or disposition by the crematory authority of the cremated remains, occurred.

8. A crematory authority shall not accept unidentified human remains. If the crematory authority takes custody subsequent to the human remains being placed within a cremation container, the crematory authority shall place appropriate identification upon the exterior of the cremation container.

9. A crematory authority shall accept human remains from the establishment that is responsible for making arrangements with the next of kin or other authorized agent.

10. If the crematory authority accepts non-human remains for cremation, those non-human remains shall be cremated only in a cremation chamber or retort designed and manufactured for the cremation of non-human remains. Human remains shall be cremated only in a cremation chamber or retort designed and manufactured for the cremation of human remains. The cremation chamber or retort for human remains should be clearly marked as such. Likewise, the cremation chamber or retort for non-human remains should be clearly marked as such. The Board has no regulatory authority over the cremation of non-human remains except as otherwise provided in this paragraph.

#### F. Cremation Containers

1. The cremation authority shall require that human remains be placed in a cremation container prior to cremation unless the remains are already in a casket.
2. Except as provided in subsections 1 and 3, no crematory authority shall make or enforce any rules requiring that human remains be placed a casket before cremation, or that human remains be cremated in a casket, nor shall the crematory refuse to accept human remains for cremation for the reason that they are not in a casket.
3. Human remains delivered to a crematory shall not be removed from the cremation container and the cremation container shall be cremated with the human remains, unless the crematory authority has been provided with written instructions to the contrary by the authorizing agent.
4. Authorized crematory authority personnel may open the cremation container for inspection of the body.

#### G. Crematory Retort Operator

1. Any person desiring to become licensed as a crematory retort operator in this state shall be at least eighteen (18) years of age and have received a high school diploma or a Certificate of General Educational Development.
2. The applicant shall make written application to the Board on forms provided by the Board. The application shall be accompanied by the required fee.
3. The applicant shall also take and pass the appropriate examinations as determined by the Board, and provide any additional information required by the Board.
4. The license shall be granted to the applicant if he or she possesses a knowledge of the operation of a crematory retort and meets the qualifications for the licensing thereof.
5. At least thirty (30) days prior to the operation of a crematory, any person intending to own or operate a crematory shall apply for a crematory retort operator license by submitting an application accompanied by the required fee.



6. All persons who operate the retort in a crematory shall have received certification by one of the following:
  - a. Cremation Association of North America (CANA);
  - b. The International Cemetery, Cremation, and Funeral Association (ICCFA);
  - c. National Funeral Directors Association (NFDA); or
  - d. Any other certification approved by the Board.
7. Prior to operating a retort, the operator shall become licensed. Every crematory retort operator shall obtain training and a certificate of training by the retort manufacturer. A copy of the certificate of training shall be submitted to the Board upon completion of the training. A copy of the certificate shall also be maintained on site at the crematory, and it shall be subject to inspection by the Board.
8. The certification for a retort operator must be completed on site by the manufacturer or another licensed retort operator.
9. On or before December 31<sup>st</sup> of the fifth (5<sup>th</sup>) year following the most recent training, the retort operator shall obtain new training and obtain a certificate stating completion as such. The new certificate of training shall be submitted to the Board upon completion of the training. A copy of the new certificate shall be maintained on site at the crematory, and it shall be subject to inspection by the board.
10. Persons receiving training toward certification to operate a retort shall be allowed to work under the supervision of an operator who holds a certification and license. The length of time the person receiving training can work under the supervision of an operator shall not exceed six (6) months.
11. All persons applying for licensure must submit OSHA bloodborne pathogen training with their initial application.
12. Crematory operation certifications must be posted in the crematory and available for inspection at any time.
13. Any employees of a crematory required to be certified under this section and retained prior to the effective date of this Rule shall be certified within one year of such effective date.

#### H. Cremation Procedures

1. In the event a death comes under the authority of the coroner or medical examiner, the human remains shall not be received by the crematory authority until authorization to cremate has been received from the coroner of the county in which the death occurred or the medical examiner. In the event the crematory authority is also authorized to perform funerals as well as perform cremation, this restriction on the receipt of human remains shall not be applicable, but cremation may not take place until authorization by the coroner or medical examiner.

2. A crematory authority shall hold human remains, prior to their cremation, according to the following provisions of this subsection:

a. Whenever a crematory authority is unable to cremate the human remains immediately upon taking custody thereof, the crematory authority shall place the human remains in a holding facility.

b. A crematory authority shall not be required to accept for holding a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

c. If human remains received by the crematory authority are not embalmed, they shall be held no longer than 24 hours unless within a refrigerated facility.

3. The unauthorized, simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden, unless the crematory authority shall have received specific written authorization to do so from all authorizing agents for the human remains to be so cremated. Such written authorization shall include an indemnification to exempt the crematory authority from all liability for commingling of the product of the cremation process.

4. Immediately prior to being placed within the cremation chamber, the identification of the human remains, as indicated on the cremation container, shall be removed from the cremation container and placed near the cremation chamber control panel where it shall remain in place until the cremation process is complete.

5. Upon completion of the cremation, and insofar as is possible; all of the recoverable residue of the cremation process shall be removed from the cremation chamber. Insofar as possible, all residue of the cremation process shall be separated from anything other than bone fragments and then be processed so as to reduce them to unidentifiable particles. Anything other than the particles shall be removed from the cremated residuals as far as possible, and shall be disposed of by the crematory authority.

6. Cremated remains shall be packed according to the following provisions of this subsection:

a. The cremated remains with proper identification, such as a disk tracking system, shall be placed in a temporary container or urn. The temporary container or urn contents shall not be contaminated with any other object, unless specific authorization has been received from the authorizing agent or as provided in subsection 6.b of this part.

b. The cremated remains with proper identification shall be placed within the temporary container or urn ordered by the authorizing agent.

c. If the cremated remains will not fit within the dimensions of a temporary container or urn, the remainder of the cremated remains shall be in a separate container.

d. When a temporary container(s) is used to return the cremated remains, that container(s) shall be placed in a suitable box and all box seams taped closed to increase the

security and integrity of that container(s). The outside of the container(s) shall be clearly identified with the name of the deceased person whose cremated remains are contained therein and the name of the cremation authority.

e. If the cremated remains are to be shipped, the temporary container or designated receptacle ordered by the authorizing agent shall be packed securely in a suitable, sturdy container and sealed properly. Cremated remains shall be shipped only by a method which has an internal tracking system available and which provides a receipt signed by the person accepting delivery.

f. When an authorizing agent has indicated a preference for cremation as the form of final disposition, embalming or refrigeration shall not be required for a forty-eight (48) hour period after death, unless a health problem dictates otherwise.

## I. Disposition of Cremated Remains

1. The authorizing agent shall be required to provide the person with whom cremation arrangements are made, a signed statement specifying the disposition of the cremated remains. A copy of this statement shall be retained by the crematory authority.

2. The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of ninety (90) days from the date of cremation, the authorizing agent or his or her representative has not specified the ultimate disposition or claimed the cremated remains, the disposition authority or the person in possession of the cremated remains may dispose of the cremated remains in any manner permitted by law. The authorizing agent shall be responsible for reimbursing the disposition authority for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. All records relating to such a disposition shall be maintained by the person making such disposition. Examples of records to be maintained include written documentation of the type of disposition and any invoices or receipts for goods and/or services that were necessary to carry out the disposition.

3. In addition to disposing of cremated remains in a crypt, niche, grave or scattering garden located in a dedicated cemetery, or by scattering over uninhabited public lands, the sea or other public waterways, cremated remains may be disposed of in any manner on the private property of a consenting owner, upon direction of the authorizing agent. If cremated remains are to be disposed of on private property, other than dedicated cemetery property, the authorizing agent shall provide the disposition authority with the written consent of the property owner. Prior to scattering cremated remains, the remains must be reduced to a particle size of one-eighth (1/8) inch or less. A person may use a boat or an airplane to perform the scattering, and cremated remains shall be removed from their closed container before they are scattered.

4. Except with the express written permission of the authorizing agent no person licensed by the Board shall:

a. Dispose of or scatter cremated remains in such a manner or in such a location that the cremated remains are commingled with those of another

person. The provisions of this paragraph shall not apply to the scattering of cremated remains at sea or by air from individual closed containers or to the scattering of cremated remains in an area located in a dedicated cemetery and used exclusively for such purposes ; or

b. Place cremated remains of more than one person in the same closed container. This paragraph shall not apply to placing the cremated remains of members of the same family in a common closed container designed for the cremated remains of more than one person.

5. Cremated remains shall be delivered by the crematory authority to the individual specified by the authorizing agent on the cremation authorization form. The representative of the crematory authority and the individual receiving the cremated remains shall sign a receipt indicating the name of the deceased, and the date, time and place of the receipt. The crematory authority shall retain a copy of this receipt. After this delivery, the cremated remains may be transported in any manner in this state, without permit, and disposed of in accordance with the provisions of Arkansas law and this Rule.

#### J. Crematory Authority- Limitation of Liability

1. Each cremation authorization form used by a crematory authority shall include language that: authorizes it to proceed with the cremation and disposition of the cremains; and indemnifications to exempt it from liability, when it has performed as directed and in accordance with all applicable laws and this Rule. Further, the following provisions apply:

a. Any person signing a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth in the form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation. Any person signing a cremation authorization form shall be personally and individually liable for all damage occasioned thereby and resulting therefrom.

b. A crematory authority shall have authority to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability for a crematory authority, disposition authority, or other person or legal entity that cremates human remains pursuant to such authorization, or that releases or disposes of the cremated remains pursuant to such authorization.

c. A crematory authority shall not be responsible or liable for any valuables delivered to the crematory authority with human remains.

d. A crematory authority shall not be liable for refusing to accept a body or to perform a cremation in dispute until it receives a court order or other suitable confirmation that a dispute has been settled if:

- (1) It is aware of any dispute concerning the cremation of human remains ;
- (2) It has a reasonable basis for questioning any of the representations made by the authorizing agent ; or
- (3) For any other lawful reason.

e. If a crematory authority is aware of any dispute concerning the release or disposition of the cremated remains, the crematory authority may refuse to release the cremated remains until the dispute has been resolved or the crematory authority has been provided with a court order authorizing the release or disposition of the cremated remains. A crematory authority shall not be liable for refusing to release or dispose of cremated remains in accordance with this subsection.

#### J. Administration

1. A crematory authority may implement additional reasonable rules and regulations, consistent with applicable law and this Rule, for the management and operation of a crematory. Nothing in this provision shall prevent a crematory authority from implementing rules and regulations which are more stringent than the provisions contained in this Rule.

2. Violations of this rule shall be punishable in accordance with all applicable law and rules pertaining to crematory authorities. Any person doing business in this state, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary or religious organization, or any other entity is prohibited from:

- a. Maintenance or operation of a building or structure within this state as a crematory without a license or in violation of this rule of the Board or laws or rules of other applicable regulatory bodies ;
- b. Holding oneself out to the public as a crematory authority without being licensed under this rule , or performing a cremation without a cremation authorization form signed by the authorizing agent ;
- c. Signing a cremation authorization form with the actual knowledge that the form contains false or incorrect information ;
- d. Performing a cremation in other than a licensed crematory authority ; and
- e. Violation of any other provision of this rule.

3. Applicable penalties may be imposed by the Board whether or not the violator holds a valid license issued to an individual, funeral establishment, crematory authority, transport service, or other entity.

#### L. Pre-Need Cremation Arrangements

1. Cremation arrangements that are made on a pre-need basis, between a consumer and a funeral establishment, may specify the ultimate disposition of the cremated remains, and that portion of the agreement shall be initialed by the individual making the arrangements. If there are no additional or different instructions provided to the crematory authority by the authorizing

agent at the time of death, then the crematory authority shall be authorized to release or dispose of the cremated remains as stated in the pre-need agreement.

2. The contract or other written document that memorializes the decedent's wishes with regard to final disposition, must be executed in accordance with the provisions of the Arkansas Final Disposition Rights Act, codified at Ark. Code Ann. § 20-17-102. Those provisions require the signature of the person/declarant, and must be witnessed by two (2) individuals. The person shall have the option of designating the crematory authority. A copy of this form shall be retained by the person and a copy sent to the crematory authority, if so designated. Any person shall have the right to transfer or cancel this authorization at any time prior to his or her death by providing written notice to all parties.

3. At the time of such person's death, any person in possession of an executed pre-need cremation authorization form, and any person charged with making arrangements for the final disposition of the deceased, who has knowledge of the existence of an executed pre-need cremation authorization form, shall use his or her best efforts to ensure that the deceased is cremated and disposed of according to the instructions contained on the pre-need cremation authorization form.

4. The provision of this section shall only be applicable if the cremation authorization is executed in accordance with Ark. Code Ann. § 20-17-102. If not, then the authorized agent of the deceased shall have the right to choose another form of final disposition at the time of the person's death, unless such change is in conflict with Arkansas law.

#### M. Sanitation and Fire Safety

1. The crematory, cremation chamber, and all related buildings and equipment shall be maintained in a clean and sanitary manner. All equipment in and related to the crematory shall be maintained in good condition according to the directions given by the manufacturer of the equipment and the appropriate regulatory authorities.

2. Crematory authorities applying for licensure shall construct their crematories in such a manner as to meet the following minimum standards:

- a. The floor of the crematory shall be of concrete and not covered with a flammable material ;
- b. The walls and ceiling of the crematory shall be of fireproof and/or fire-retardant materials ; and
- c. The crematory shall have adequate ventilation and adequate entrances and exits for the protection of the public and authority personnel.

3. No flammable material shall be stored within five feet of the cremation chamber.

#### N. Miscellaneous Provisions Relating to Crematory Authorities

1. License holders agree that Board representatives have the right to inspect the crematory and the records of the crematory authority at any time.

2. License holders shall also agree to hold valid licenses issued by any other applicable regulatory agencies. Failure to hold such other licenses or permits, when they are necessary to be held, shall be considered a violation of this rule.
3. Personal items placed or caused to be placed in the cremation container with the body of the deceased shall not be removed by the crematory authority or its representatives. This provision does not apply if the items could cause harm to the crematory or to the crematory authority personnel during the cremation process.
4. Any items removed from the cremation container shall be returned to the authorizing agent.
5. All cremations of human remains in this state shall be arranged through the holder of a licensed funeral establishment
6. Records required by this rule of crematory authorities, disposition authorities, and other parties shall be maintained in accordance with Section 22 of this rule.

O. Funeral Establishment Type D- Transport Service Firm

1. A transport service firm is an agent of a Type A establishment, and as such, is prohibited from making arrangements with the public.
2. No transport service firm headquartered or having an office in the State of Arkansas shall operate in this state without a valid license issued by this Board.
3. Application for licensure as a transport service firm shall be made on forms provided by the Board.
4. A license for the operation of a transport service may be issued by the Board if the Board finds:
  - a. That the firm is owned, managed, and supervised by a person approved by the Board;
  - b. That the owner or manager of a transport service firm has provided the Board with three (3) letters of reference, one of which must be submitted by the manager of a funeral establishment licensed by the Board;
  - c. That the owner or manager of a transport service firm is at least twenty- one (21) years of age;
  - d. That the application was completed on forms provided by the Board and accompanied by the required fees;
  - e. That the application was received by the Board at least twenty (20) business days before the Board's next regularly scheduled meeting;
5. The name of the owner or manager of a transport service firm shall be reported annually to the Board.
6. Should the owner or manager of a transport service firm leave the employment of the firm for any reason, the transport service firm shall notify the Board of his or her leaving within

ten (10) business days and the name of the new manager within thirty (30) business days. Any new manager shall meet all Board requirements for that position.

7. Any person employed by a transport service firm as a driver is must be at least eighteen (18) years of age, hold a valid driver's license issued by the State of Arkansas, and have an acceptable driving record

8. Vehicles used by the transport service firm must be suitable for the purpose for which they are being used by the firm in the transport of the human dead. At a minimum:

- a. Vehicles must be of adequate size and interior space ;
- b. Vehicles used may at no time transport more than the number of bodies they are designed to accommodate ;
- c. Vision from the outside of each transport vehicle into the area designed for transporting the dead must be restricted by tinting, curtains, shades, or other suitable means ;
- d. A passenger vehicle such as a sedan may not be used except for transporting infants ;
- e. A pickup truck with camper shell cover may only be used in extreme conditions caused by decomposition and odor or by extreme weather conditions or terrain ; and
- f. All vehicles must be kept clean and sanitary, and maintained in good and serviceable condition.

9. All transport service firms shall carry liability insurance coverage of not less than five hundred thousand dollars (\$500,000.00) and commercial automobile liability insurance coverage of not less than five hundred thousand dollars (\$500,000). The policy shall specifically indicate that the coverage is for the transport of the human dead. Proof of general liability insurance and commercial automobile insurance shall be provided to the Board prior to issuance of an original or renewal Type D Establishment license.

10. When a transport service firm is sold or changes ownership, the firm shall notify the Board, in writing, at least thirty (30) days prior to the sale or change of ownership. In cases where the name of the firm will not change, the license in effect shall be honored for the new owner until that license expires. If the new owner desires to change the name of the transport service firm prior to license expiration, then the owner shall apply for a license for the firm to be issued in the new name.

11. When a transport service firm is closed, the Board shall be immediately notified of the closing in writing , and the license in force at the time of closure shall be returned to the Board office within seven (7) days.

12. If a transport service firm license is revoked, that license shall be returned to the Board office within seven (7) days of receipt of the Board's order revoking the license.

13. If all requirements are met, the Board shall grant each application for the licensure of a transport service firm at the meeting at which the license application was discussed. No



applicant may operate a transport service firm until notification from the Board that a license has been issued.

14. Transport service firm licenses and renewal licenses shall be issued under this section upon application, receipt of proof of required insurance, and after approval of the Board. All transport licenses must be renewed on or before December 31st.
15. An application fee shall accompany each application for licensure.
16. Renewal of all transport service firm licenses must be made on or before December 31st of each year, and must be accompanied by the annual renewal fee.
17. Licenses not renewed by December 31st of any year shall be considered delinquent and may be grounds for disciplinary action by the Board.
18. The owner or manager of a transport service firm may hire such employees so that services are competently provided. The manager is responsible for the supervision and performance of his or her employees and agents in the course of providing the services of a transport service firm. Disciplinary action may be brought against the firm and its owner and/or manager because of the acts or omissions of the firm's employees and agents which violate any applicable law or the rules of the Board.
19. A transport service firm may only act at the request of, and as the agent of, a licensed funeral establishment or its representative.
20. A transport service firm is prohibited from providing shelter, care, or custody of the human dead except as provided by law and in this rule. This does not prohibit a licensed funeral director or embalmer from acting as an agent and at the request of a licensed funeral establishment or its representative from providing those services.
21. Holders of funeral establishment licenses issued by the Board are exempt from any requirement to hold a separate transport service firm license.
22. The dignity of the deceased person shall be respected at all times by the transport service firm and its personnel.
23. Acceptance of a license issued by the Board gives a Board and its representatives the right to inspect the office of the transport service firm, its vehicles, and the records of the firm at any time.
24. License holders shall also hold valid licenses issued by any other applicable regulatory agencies. Failure to hold such other licenses or permits, when necessary, shall be considered a violation of this rule .
25. When acting as an agent of a funeral establishment, or in the course of their normal business, ambulance companies and licensed common carriers, such as airlines, freight

companies, and railroads, may transport the bodies of the human dead in and through this state without a transport service firm license issued by the Board.

## **Section 7. Apprenticeship**

A. Any person desiring to apprentice in the science of embalming in this state shall be eighteen (18) years of age, have graduated from an accredited high school or have been issued a certificate of equivalency issued by the public school system, the military service, or an accredited college or university. He or she shall serve one (1) year in an Arkansas licensed establishment under an embalmer licensed by this Board, and shall assist in the preparation of at least fifty (50) bodies. This apprenticeship shall be registered with the Board, on applications provided by the Board, and individual case reports must be signed by both the apprentice and the licensed embalmer under whose supervision the work was done, and filed with the Board by the 10th day of the following month. The apprentice must enroll in mortuary school within one year of beginning the apprenticeship. Failure to do so will result in the termination of the apprenticeship for a period of ninety (90) days, or upon the enrollment in mortuary school, whichever period is shorter. If the apprentice is a graduate of a school of embalmers, then proof of such graduation and the requirements therefor may be substituted for six (6) of the eighteen (18) months of the apprenticeship, provided the school is accredited by the American Board of Funeral Service Education or approved by the Board.

B. Any person desiring to apprentice in the business of funeral directing in this state shall be eighteen (18) years of age, have graduated from an accredited high school or have been issued a certificate of equivalency issued by the public school system, the military service, or an accredited college or university. He or she shall serve eighteen (18) months in an Arkansas licensed establishment under a funeral director licensed by this Board, and shall actively assist in the arranging and conducting of fifty (50) services. This apprenticeship shall be registered with the Board, on forms provided by the Board, and individual case reports must be signed by both the apprentice and the licensed funeral director under whose supervision the work was done, and filed with the Board by the 10th day of the following month. If any person is a graduate of an accredited school of mortuary science and has passed the National Conference Exam, that person shall be required to serve only one (1) year as an apprentice funeral director. Any person serving a funeral director apprenticeship must obtain at least six (6) hours of classroom instruction during the apprenticeship. These hours must be attained in the subject matters of funeral service practices and ethics, laws, and rules affecting funeral service. The continuing education courses shall be taken from a provider approved by the Board and cover instruction in funeral service practices and ethics, laws, and rules affecting funeral service.

C. Any person desiring to register as an apprentice either in the science of embalming or the business of funeral directing must submit the following documents:

1. A completed application for Apprentice Funeral Director or Apprentice Embalmer, or both if the applicant wishes to apply for dual apprenticeship;
2. The required fee(s);

3. A copy of his or her high school diploma, certified transcript with proof of graduation, certificate of equivalency issued by the public school system or military, or an accredited college or university diploma, or official transcript with proof of graduation;
4. Completed statement of apprenticeship form;
5. A recent color photograph or photo identification; and
6. The forms and fees necessary for the Board to conduct a State Police background check.

D. All funeral director and embalmer case reports must be filed in the Board's office no later than the 10th of the month following the month in which the work was actually performed. Incomplete case reports will not be accepted, and as such, they will be returned to the apprentice.

E. Any person who is registered as an apprentice embalmer and/or funeral director in the State of Arkansas is required to complete this apprenticeship within three (3) years of the date of registration. If not completed within three (3) years, the apprentice may re-register for a second three (3) years. In cases where the apprenticeship is not completed in three (3) years, the apprentice will be notified that he or she has ninety (90) calendar days to re-register. If the apprentice fails to re-register within ninety (90) calendar days from the date of notification, then upon any delinquent re-registration, the apprentice must start the apprenticeship from the beginning, to include case reports. If the apprenticeship is not completed within six (6) years of the date of original registration, he or she shall not be eligible to register as an apprentice for ninety (90) calendar days. After this ninety (90) day period, a person may register as an apprentice and begin the process from the beginning, including case reports.

F. All apprentice funeral directors shall submit fifty (50) case reports during the term of apprenticeship. The case reports must document that each of the following responsibilities was performed:

1. Either make the arrangements or observe the arrangements being made with the family, including the selection of merchandise;
2. Make the church set-up and organize how family and friends are to be directed ;
3. Direct family, or assist in doing so, at the funeral and cemetery service, and dismiss family and friends at the conclusion of the service;
4. Be in charge of the movement of the casket and instruct the pallbearers ;
5. Organize the funeral procession, and determine where and how parking is to be done, either chapel or church, or any other place;
6. Arrange flowers;
7. Direct movement of people when viewing remains, at either chapel, church or any other place ;
8. Organize "Order of Service" with minister and musicians ;
9. Prepare notice of service and/or obituary;
10. Order copy or copies of death certificates;
11. Prepare funeral service programs and/or video life tributes;

12. When appropriate, coordinate veteran arrangements such as flag, honor guard, marker, etc.;
13. Process file documentation, such as information sheet, insurance assignment(s), and final billing statement;
14. File claim on assigned insurance and/or annuity policies, and social security benefits; and
15. Make removals.

G. Any person desiring to apprentice in the business of funeral directing and or embalming with more than one firm, may do so by completing the applicable apprenticeship form(s), statement of apprenticeship form, and register with the Board office. There are no additional fees for adding an additional location.

H. Any person registered as an apprentice who desires to add additional licensees/supervisors, may do so by having those licensees send a signed, notarized statement to the Board office indicating their willingness to serve as a supervisor.

I. Any person registered as an apprentice who desires to leave a registered location for a new location, must register the new location with the Board before starting that apprenticeship.

J. The funeral establishment shall be responsible for notifying the Board in writing if an apprentice leaves the employment of the establishment, or is terminated from his or her apprenticeship duties at each location he or she might serve.

## **Section 8. Qualifications of Applicants for Examination**

A. Any person desiring to be examined in the science of embalming in the State of Arkansas must meet the requirements set forth for taking the National Conference Exam. Prior to taking the Arkansas Laws, Rules, and Regulations Exam (“ARLRR”), embalmer applicants must have either: graduated from an accredited school of mortuary science or completed his or her case reports.

B. Any person desiring to be examined in the business of funeral directing within the State of Arkansas must have either: graduated from an accredited school of mortuary science or completed his or her case reports.

## **Section 9. Examinations/Licensure**

- A. Regular examinations shall be held at the discretion of the Board. Applicants for the examination shall be registered as either an apprentice embalmer or an apprentice funeral director, or both. If the applicant does not pass the examination during either the first three-year apprentice period or the second three-year apprenticeship period (if needed), then the applicant shall not be able to re-register as an apprentice for at least ninety (90) calendar days after the expiration of the second three-year apprenticeship period. If the applicant does not successfully pass the examination during a first, second, third, or

fourth three-year apprenticeship period, then the applicant must register for another apprenticeship before he or she is eligible to take the examination.

- B. Applicants for embalmer licenses shall take and pass both parts of the National Conference Exam and the ARLRR.
- C. Applicants for a funeral director license shall be given a written examination on information contained in the Arkansas Laws, Rules and Regulations Manual and any other such subjects the Board deems necessary.

D. Applicants for a funeral director license shall be required to score a minimum of 75 percent on the ARLRR to successfully pass that examination. Once the applicant passes the examination and obtains six (6) hours of continuing education, he or she shall be entitled to receive, from the Board, a license to practice the business of funeral directing, provided all the other requirements have been met. If the applicant needs to take the examination more than once in order to receive a passing score, the examination may be taken once every thirty (30) days.

E. Applicants for an embalmer license shall be required to score a minimum of 75 percent on both parts of the National Conference Exam and a minimum of 75 percent on the ARLRR. Upon passing the examinations, the applicant shall be entitled to receive, from the Board, a license to practice the science of embalming, provided all the other requirements have been met. If the applicant needs to take the examination more than once in order to receive a passing score, the examination may be taken once every thirty (30) days.

F. All questions used on the ARLRR are the property of the Board.

G. An applicant may qualify to take the ARLRR at the completion of eighteen (18) months of his or her apprenticeship.

H. Graduates of an accredited mortuary school shall be immediately eligible to take the ARLRR.

I. Individuals who have successfully completed a funeral director and/or embalmer apprenticeship, who wish to become licensed as such, must apply for the license by submitting the forms and fee(s) required by the Board.

#### **Section 10. Requirements for Reciprocal Licenses**

- A. Any person holding a valid, license as an embalmer, funeral director, or crematory retort operator in another state, U.S. Territory, or Provincial Authority, may apply for a license to practice in this state as an embalmer, funeral director, or crematory retort operator, if the person seeking reciprocity meets all the requirements for licensure in this state:
  - 1. The person must demonstrate that he or she holds an embalmer, funeral director, or crematory retort operator or similar license(s) in another state, territory, or district of

- the United States in good standing, and has not had his or her license revoked for an act of bad faith or a violation of law, rule or ethics;
2. The person must not hold a suspended or probationary occupational license in any state, territory, or district of the United States;
  3. The person must be qualified in his or her field; and
  4. The person must pay the required fee.
- B. Application shall be made by filing with the Board, a certified statement completed by the examining Board of the state, U.S. Territory or Provincial Authority in which the applicant holds his or her license, that shows the basis upon which the license was issued. It is the applicant's responsibility to request from the other state, U.S. Territory or Provincial Authority where he or she holds a valid license, to complete the Certification of Licensure form provided by the Board.
- C. Upon receipt of the application, the Board may issue a temporary working number, which is valid for one year from the date of issuance.
- D. To obtain a license, the applicant shall pass an exam to prove his or her proficiency, including at least, but not limited to, a minimum knowledge of the laws, and rules of this state pertaining to funeral service. The exam may be taken at one of the regularly scheduled exam sessions set by the Board. The exam may be taken once every thirty (30) days.
- E. If the Board is satisfied with the proficiency of the applicant, upon receipt of the required fees, a license may be granted.
- F. Individuals who hold a license in another state, territory or district of the United States that does not offer reciprocity similar to reciprocity in Arkansas, will be required to successfully pass the ARLRR.
- G. Automatic Licensure for Military Service Members, Veterans, and Spouses
1. As used in this subsection:
    - a. "automatic occupational licensure" means the granting of an embalmer's license, a funeral director's license, a crematory retort operator's license, an apprentice embalmer, or an apprentice funeral director without the individual's having met occupational licensure requirements provided under Title 17 of the Arkansas Code or by these Rules.
    - b. "occupational licensure" means a license, permit, or registration that is required for an individual to engage in apprenticeship, embalming, funeral directing, or operating a crematory retort.
    - c. "returning military veteran" means a former member of the United States Armed Forces who was discharged from active duty under the circumstances other than dishonorable.
    - d. "uniformed service member" means:

- (1) an active or reserve component member of the United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space Force, or National Guard;
    - (2) An active component member of the National Oceanic and Atmospheric Commissioned Officer Corps; or
    - (3) An active or reserve component member of the United States Commissioned Corps of the Public Health Service.
  - e. “uniformed service veteran” means a former member of the United States uniformed services discharged under conditions other than dishonorable.
2. The Board shall grant automatic occupational licensure to any the following individuals:
    - a. A uniformed service member stationed in the State of Arkansas;
    - b. A uniformed service veteran who resides in or establishes residency in the State of Arkansas;
    - c. The spouse of a uniformed service member stationed in the State of Arkansas;
    - d. The spouse of a uniformed service veteran who resides in or establishes residency in the State of Arkansas;
    - e. The spouse of a uniformed service member who is assigned a tour of duty that excludes the uniformed service member’s spouse from accompanying the uniformed serviced member and the spouse relocates to this state; and
    - f. The spouse of a uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.
  3. The Board shall grant automatic occupational licensure to any individual listed in Subsection 4, above, and is the holder in good standing of occupational licensure with similar scope of practice issued by another state, territory, or district of the United States.
  4. The Board shall accept relevant and applicable uniformed service education, training, or service-issued credential toward occupational licensure qualifications or requirements when considering an application for initial licensure of an individual who is a uniformed service member or a uniformed service veteran who makes an application within one (1) year of his or her discharge from uniformed service.
  5. The Board shall extend the expiration date of any license, permit, or registration issued for a deployed service member or his or her spouse for one hundred eighty (180) days following the date of the uniformed service member’s return from deployment.
  6. The Board shall allow for a full exemption from continuing education requirements for any individual listed in Subsection 7, until one hundred eighty (180) days following the date of the uniformed service member’s return from deployment.

7. In order to allow for full exemption of continuing education, the Board may require evidence of completion of continuing education before granting a subsequent licensure or authorizing the renewal of the license, permit, or registration.

## **Section 11. License Renewals and Reinstatements**

- A. License renewals and reinstatements shall be made on forms provided by the Board.
- B. All embalmer, funeral director, and crematory retort licenses issued by this Board shall expire on December 31st of each year, and they must be renewed on or before December 31st. Failure to renew timely will require the licensee to pay delinquency fees as provided in this Rule.
- C. All establishment licenses expire on December 31st of each year, and they must be renewed on or before December 31st. Failure to renew timely will require the licensee to pay delinquency fees as provided in this Rule.
- D. Renewal fees, must accompany each application for renewal.
- E. Every licensed embalmer and/or funeral director who is actively engaged in the practice of embalming and/or funeral directing in Arkansas shall report at least 6 hours of approved continuing education on the renewal form.
- F. Failure to receive the renewal notice shall not relieve any licensee of the duty to timely renew the license or to pay the renewal fee or any delinquent fees as prescribed.
- G. Renewals and Delinquent Fees

1. All embalmer, funeral director, and crematory retort operator license renewals received after December 31st of each year are considered delinquent, and licensees are not allowed to practice the science of embalming, or to engage in the business of funeral directing, or the operating of a crematory retort, until a renewal card has been issued for the current year. A delinquent fee as prescribed by the Board for each three (3) months, or fraction thereof, with a maximum of twelve (12) months, must be remitted with a reinstatement fee equal to one (1) year of delinquent fees .

2. Any person whose license has been delinquent for at least thirteen (13) months may apply for reinstatement upon submission of the appropriate forms and fees.

3. Any person who held a license which has lapsed three (3) or more years past, must appear before the Board at a regular meeting to seek reinstatement.

4. All Establishment license renewals received after December 31<sup>st</sup> of each year are considered delinquent, and establishments shall cease operating until the license is renewed. A per month delinquent fee will be due and owing for each month the license is delinquent.



5. Reinstatement. Any individual who seeks to reinstate a license issued by this Board shall submit an application to reinstate, along with the reinstatement fee, and shall meet the following requirements:

- b. Was previously licensed by the Board;
- c. Held his or her license or registration in good standing at the time of licensing or registration;
- d. Did not have his or her license or registration revoked for an act of bad faith or a violation of a law or rule;
- e. Is not currently holding a suspended or probationary license, registration, permit, or certification in any other state;
- f. Is sufficiently competent. Competency may be shown by proficiency testing, letters of recommendation, or both;
- g. Is able to successfully complete a criminal background check; and
- h. Has successfully completed at least six (6) hours of continuing education.

6. Reinstatement Fee. In order to reinstate an embalmer, funeral director, or crematory retort operator license which has been expired for thirteen (13) months or longer, the licensee shall pay a reinstatement fee of \$100.00 per license, in addition to the renewal fee for each license being reinstated.

H. Inactive Status. Funeral directors and embalmers who wish to renew as inactive must notify the Board before December 31<sup>st</sup> of the year before the year they wish to convert to inactive status, on a form provided by the Board, and accompanied by the required fee. The licensee shall be required to remain inactive for a period of one year. Nonetheless, if the licensee wishes to become active during the one-year period, then he or she must notify the Board as such and submit the required forms, including proof of six (6) hours of continuing education.

**Section 12. Duplicate Embalmer, Funeral Director, Crematory Retort Operator, and Funeral Establishment Licenses**

Any licensee may request a duplicate license. The request shall be accompanied by the required fee. The fee shall be paid for each duplicate embalmer, funeral director, crematory retort operator, or establishment license issued. Each duplicate license will clearly state that it is a duplicate license, and it will state the license number and expiration date.

**Section 13. Fees**

Embalmer License Renewal.....	\$30.00
Funeral Director License Renewal.....	\$30.00
Crematory Retort Operator License Renewal.....	\$30.00
Establishment License Renewal ( Type A B, and C).....	\$150.00
Crematory Construction Permit.....	\$25.00
Type D Transport Service Firm License Renewal.....	\$50.00
Apprentice Embalmer Application.....	\$50.00

Apprentice Funeral Director Application.....	\$50.00
Establishment License Application (Type A, B, C, or D) .....	\$50.00
Crematory Retort Operator Application.....	\$50.00
Reciprocal Application (Embalmer, Funeral Director, or Crematory Retort Operator)...	\$150.00
Examination Fee (Embalmer or Funeral Director).....	\$100.00
Delinquent Fee (Embalmer, Funeral Director, or Crematory Retort Operator) per quarter, per license .....	\$50.00
Reinstatement Fee (Embalmer, Funeral Director, or Crematory Retort Operator).....	\$100.00
Delinquent Fee (Establishment) A, B, C or D per quarter.....	\$450.00
Original License (Embalmer, Funeral Director, or Crematory Retort Operator).....	\$10.00
Original License (Establishment) Type A, B, C, or D.....	\$35.00
Duplicate License (Embalmer, Funeral Director, or Crematory Retort Operator) .....	\$20.00
Duplicate License (Establishment) Type A, B, C, or D.....	\$20.00
Continuing Education Application Fee.....	\$100.00
Initial Inspection Fee.....	\$250.00
Re-Inspection Fee.....	\$100.00
Inspection Penalty Fees.....	range between \$100.00 and \$700.00

**Section 14. Lifetime Licenses**

The Board shall waive the renewal fee for any funeral director, embalmer, or crematory retort operator whose license has been in force and effect for fifty (50) years or more. On the fiftieth (50<sup>th</sup>) anniversary of that license, a Lifetime License may be issued by the Board, provided the licensee is in good standing. Any licensee who has been licensed for fifty (50) years or more is eligible for a Lifetime License.

**Section 15. Sales Practices**

A. All funeral merchandise shall have a visible price card. The price card shall clearly state what merchandise and whether any services are included in the quoted price.

B. Every funeral firm and/or funeral director in this state shall give, or cause to be given, to the person or persons making funeral arrangements, or arranging for the disposition of a dead human body, at the time such arrangements are completed, and prior to the time of rendering the service, and/or providing the merchandise, a written statement to the extent then known, which includes the following:

1. The price of the service that the person or persons have selected and what is included therein;
2. The price of each of the supplemental items of service and/or merchandise requested;
3. The amount involved for each of the items for which the firm will advance monies as an accommodation to the family; and
4. The method of payment.

C. No funeral firm shall bill or cause to be billed any item that is referred to as a “Cash Advance or Cash Accommodation” item unless the net amount paid for such item or items by the funeral firm is the same as it is billed by the funeral firm.

D. Every funeral firm and/or funeral director or embalmer in the State of Arkansas shall comply with these and all other requirements of the Federal Trade Commission (FTC) as they apply to funeral service.

## **Section 16. Funeral Service Practices**

A. Prior to the removal of any body from the place of death, authorization shall be obtained from the authorizing agent who will be responsible for the post death arrangements. The authorization may be obtained verbally, either in person or over the phone, or in writing. However, removal may be made without authorization where human dignity or the avoidance of a public nuisance requires. Such removal without authorization shall be made only pending required authorization from the authorizing agent, in cases when authorization can be obtained. If the funeral firm which has custody of the remains is not the one selected to provide funeral services, then such firm shall release the body to the funeral firm selected by the authorizing agent(s) as soon as possible, but no later than three (3) business days. The funeral establishment that performs the removal and the funeral establishment that receives the body shall each maintain a release form signed by the authorizing agent. The receiving funeral firm shall be responsible for the costs of services provided by the funeral firm that made removal. The cost of the provided services shall not exceed the prices for those services as listed on the removing funeral firm’s General Price List. Payment of those costs shall be payable at the time of removal. If the initial removal was at the request of a public official, costs incurred in the removal, shelter, and temporary care of the body shall be paid by such public officials.

B. When a funeral establishment has proper custody of a body, its personnel shall not proceed with any embalming procedures, when there is any indication that embalming is not desired; provided, however, that washing and other public health procedures such as the closing of the orifices by placing cotton soaked in a disinfectant in such orifices until such authorization is received or refused, shall not be precluded. Further, if authorization cannot be obtained or denied from the authorizing agent within a reasonable time, then preparation of the remains by the normal and usual method of embalming, for purpose of preservation and viewing, will be assumed to be granted.

C. The personnel of a funeral establishment whose services are desired shall make every reasonable attempt to fulfill the needs and desires of the deceased and/or the authorizing agent, both as to service and merchandise. A full disclosure of all the establishment’s available services and merchandise shall be made to the authorizing agent prior to selection of the merchandise and services.

D. Using any funeral merchandise previously used, in whole or in part, without prior written permission of the person selecting and/or paying for the use of the merchandise, is prohibited.

E. Any statements made of legal requirements shall be complete and factual, as shall any statements as to the conditions under which embalming is required or advisable. Representations

as to the use of a casket or other receptacle and the necessity, if any, of an interment receptacle in connection with a funeral or an alternative thereto, or for final disposition, shall be truthful and shall disclose all legal and/or cemetery interment requirements.

F. Prior to the delivery of the body, the establishment personnel shall explain, to the authorizing agent, next of kin, or whomever is responsible for post-death arrangements, when such explanation is desired, the components of the prices for alternatives to a funeral service. Alternatives may include, but are not limited to, a memorial service, a graveside service, direct disposition, or body donation without any rites or ceremonies. The personnel shall explain the price, if any, of returning any residue or remains following body donation if that option is chosen.

G. Each funeral establishment which has a casket selection room shall have a card or brochure in each casket therein setting forth the price of the service using said casket and listing the services and other merchandise included in the price, if any. Where there are separate prices for the casket and/or services, and/or for the use of facilities and/or equipment, such card should indicate the price of the casket and of the items separately priced. The price of the casket only may be displayed on such card in the casket, if all other separately priced items are provided in writing prior to the selection of the casket; provided, however, that such price be accompanied by language that the price quoted is for the casket only.

H. Funeral service firms are required to make reasonable adjustments in their price when less than the quoted offering is utilized.

I. When the services of two funeral firms are necessary, the funeral firm engaged at the place of death (the removing firm) shall charge only for the professional services, facilities and merchandise provided, and a representative thereof shall so notify the receiving funeral firm. The receiving funeral firm shall charge only for the professional services, facilities and merchandise provided by it. There shall be a duplication of charges by the removing and receiving funeral firms only when there is a duplication of professional services, facilities or merchandise pursuant to the request of the authorizing agent.

J. Every funeral firm shall have available to the public before and at the time of need, factual information about immediate post death activities, including funeral prices, alternative types of services and their prices. Such information shall include the functions, services and responsibilities of the funeral service firm.

K. Establishments responsible for advertisements that refer to available services, such as “a funeral”, “complete funeral” “complete service” “memorial service”, or “direct disposition”, shall also provide factual information as to professional services, facilities, equipment, merchandise and miscellaneous items. This information should be easily obtainable from the establishment responsible for the advertisement.

L. No funeral service firm shall employ any form of “bait advertising” as described in Section 3 of this Rule.

M. Any advertisement to offer to provide a service at a stipulated price shall be made in good faith. Further:

1. The merchandise to be used in the service shall be a part of the regular merchandise displayed by or for the funeral service firm; and
2. The desirability of such offer shall not be disparaged or otherwise discouraged.

N. No principal, employee, or agent of a funeral service firm will make inaccurate statements concerning the prices charged or the nature of services provided by other funeral service firms.

O. Licensees are prohibited from engaging in solicitation. Solicitation occurs when a funeral establishment contacts the next of kin or other authorizing agent, when the next of kin or authorizing agent did not initiate the contact with the funeral establishment. Licensees and their agents, assistants and employees shall not solicit dead human bodies, either while death is impending, or after death. This prohibition does not prohibit general advertising. The following provisions also apply:

1. Licensees shall not directly or indirectly, employ an apprentice, agent, assistant, employee, or other person on a part-time, full-time, or commission basis, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular establishment.
2. Licensees shall not directly or indirectly, pay or offer to pay, a commission to another licensee, or to the licensee's own agents, assistants, or employees, for the purpose of securing business.

## **Section 17. Complaints**

A. Complaints concerning violations of statutes or Board Rules may be made by the Board itself, through its staff, or by a member of the public.

B. All complaints shall be submitted to the Board's office.

C. A copy of any complaint filed will be sent to the licensee or party against whom the complaint has been lodged.

D. The licensee or other party is to be given fifteen (15) days to respond, in writing, to the allegations of the complainant. Failure to respond and the failure to timely respond to the complaint, are automatic violations.

E. All complaints and responses shall be typed or written legibly. All complaints and responses shall also be signed and notarized.

F. Upon receipt of the response(s), the complaint will be investigated if so warranted. When appropriate, the Board's inspector may inspect the establishment against whom the complaint has been filed.

- G. After any investigation is complete, the Board's counsel will review the complaint file.
- H. Board staff will then recommend that the Board either: close the complaint because there is no evidence of violations, set the matter for a hearing, or resolve by another means.
- I. If the Board determines that the matter should be set for a hearing, then an order and notice of hearing will be sent to the licensee(s) or other party(ies) by Certified Mail. J. The licensee or other party and the complainant shall be given twenty (20) days written notice of the time and place of the hearing. Failure to appear at the hearing is an automatic violation.

## **Section 18. Parliamentary Procedures**

Roberts Rules of Order is adopted as the official Parliamentary Manual, and the rules contained therein shall govern the Arkansas State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services in all cases to which they are applicable and which do not conflict with the governing statutes and Rules of the Board.

## **Section 19. Inspections**

- A. The Board's Inspector shall inspect Type A, B, C, and D establishments for their initial inspection. The inspection fee must be submitted with the application for the establishment license.
- B. Re-inspections are those inspections that are required due to significant changes. These changes include, but are not limited to, an addition of an embalming preparation room, relocation of an embalming preparation room, the addition of a retort, a location change, or a change in ownership. Re-inspections required due to significant changes require the payment of the re-inspection fee, along with submission of the required forms.
- C. The Inspector shall inspect all Type A, B, C, and D establishments randomly throughout the year during normal business hours. The Inspector should be allowed to enter within a reasonable amount of time not to exceed one (1) hour.
- D. If an inspection or re-inspection is unsuccessful due to lack of cooperation of the establishment license holders, then the license holders will be subject to an inspection penalty fee of one hundred (\$100.00) per hour after the initial hour. Maximum wait shall be seven (7) hours or seven hundred (\$700.00) dollars for each day of occurrence.
- E. Public areas shall be inspected. Each establishment shall have public restroom accommodations which shall be clean and in good working order. Further, all public areas shall be kept in a good state of repair. All sidewalks, entrances, and walkways shall be free from debris, ice, or other obstacles to the extent practicable.
- F. If any establishment is cited for failure to comply with any requirements provided in statutes or Board Rules, when practicable, the establishment shall resolve the violation to the satisfaction of the Board within thirty (30) days after the filing of the inspection report. The establishment

may be granted a longer period of time within which to resolve the violation, at the discretion of the Board.

## **Section 20. Continuing Education**

### **A. Requirements for Embalmers**

1. Every licensed embalmer who desires to be actively engaged in the practice of embalming in Arkansas shall submit with the annual renewal application, evidence of satisfactory completion of at least six (6) hours of classroom instruction. Classroom instruction includes: a traditional brick and mortar style classroom environment, and instruction provided remotely by the use of digital media, including live webinars, and self-guided courses that provide for a test and certificate of completion, and any other method of instruction that is approved by the Board.
2. Every licensed embalmer who is not actively engaged in the practice of embalming in Arkansas shall be exempt from the continuing education requirements set forth above. If the person becomes engaged in the active practice of embalming, such person shall, within the first year of becoming engaged in active practice of embalming, meet the continuing education requirements as stated above.

### **B. Requirements for Funeral Directors**

1. Every licensed funeral director who is actively engaged in the business of funeral directing in Arkansas shall submit with the renewal application, evidence of satisfactory completion of at least six (6) hours of classroom instruction. Classroom instruction includes: a traditional brick and mortar style classroom environment; instruction provided remotely by the use of digital media, including live webinars; self-guided courses that provide for a test and certificate of completion; and any other method of instruction that is approved by the Board.
2. Every licensed funeral director who is not actively engaged in the business of funeral directing in Arkansas shall be exempt from the continuing education requirements set forth above. If the person becomes engaged in the active practice of funeral directing, such person shall, within the first year of becoming engaged in the active practice, meet the continuing education requirements as stated above.

### **C. Requirements for Individuals Dually Licensed as an Embalmer and Funeral Director**

1. Every licensee holding both an embalmer and a funeral director license, who desires to be actively engaged in the practice of both arts, shall submit with the annual renewal form, evidence of satisfactory completion of at least six (6) hours of classroom instruction.
2. Classroom instruction includes: a traditional brick and mortar style classroom environment; instruction provided remotely by the use of digital media, including

live webinars; self-guided courses that provide for a test and certificate of completion; and any other method of instruction that is approved by the Board.

- D. Requirements for Crematory Retort Operators- every licensed Crematory Retort Operator who desires to be actively engaged in operating crematory retorts shall annually submit a renewal application for licensure. The required certification received from the manufacturer must be submitted to the Board every five (5) years.
- E. Actively engaged is defined as: practicing the science of embalming, engaging in the business of arranging, or conducting funerals, and operating a crematory retort.
- F. Every licensee who is not actively engaged in the practice of embalming, funeral directing, or operating a crematory retort in Arkansas shall be exempt from the continuing education requirement. If the person becomes engaged in the active practice of embalming, funeral directing, or operating a crematory retort, such person shall within the first full year after becoming engaged in the active practice, meet the continuing education requirements specified by the Board.
- G. Lifetime Licenses- Those licensees who hold a lifetime license are exempt from meeting the continuing education requirements.
- H. Those licensees who have been licensed for twenty (20) years and have attained the age of sixty-five (65) are exempt from the continuing education requirements.
- I. Out of State Licensee- Every licensee who holds a valid Arkansas license but lives outside of the State of Arkansas and is not actively engaged in funeral directing, embalming or operating crematory retorts, is not required to meet the continuing education requirements.
- J. Continuing Education (License Requirements and Exemptions)
  - 1. All actively engaged embalmers and funeral directors shall have attained six (6) hours of continuing education prior to December 31<sup>st</sup> of each year. Proof of satisfactory completion of the continuing education shall accompany the renewal application. Those licensees who fail to attain the required continuing education hours by December 31<sup>st</sup> of any year will be notified by the Board of the deficiency, and the license will not be renewed, causing it to expire.
  - 2. The Board shall have the power to excuse licensees from the continuing education requirements as set forth in this Rule.
  - 3. Continuing education credit(s) may be obtained by attending and participating in continuing education courses or workshops previously accredited by the Board, or which otherwise meet the requirements stated in this Rule and are approved by the Board. This includes continuing education credits approved by other states.



4. When an organization, educational institution, or person is an accredited sponsor, all continuing education programs of the organization, educational institution, or person, shall be subject to approval by the Board. Each organization, educational institution, or person, shall upon completion of an application and a fee set by the Board, be notified of the approval or disapproval of the course(s) at least thirty (30) days before the course(s) is offered.
  5. No more than three (3) continuing education hours can be carried over from one licensing year to the next.
  6. Continuing education requirements are waived the first year of licensure.
  7. Continuing education requirements for individuals who have been granted a reciprocal license in funeral directing and/or embalming in Arkansas, shall be waived, for the first year of licensure.
  8. Continuing education credits shall be granted for any community college, junior college, or four-year university course relating to and approved by the Board for the continuing education requirements. Each applicant for such a course shall also supply the Board a certificate of completion, the completed grade, and the number of hours received in such a course accredited by the college or university.
- K. Any licensee who has been found to have submitted credits for continuing education hours but has not attended the hours or did not complete the hours, shall be subject to disciplinary action by the Board.

L. Continuing Education Seminars

1. Standards for Approval

- a. A continuing education course or workshop shall be qualified for approval if the Board decides that it;
  - (4) Constitutes an organized program of learning, including a symposium, which contributes directly to the professional competency of the licensee;
  - (5) Is related to the practice of mortuary science or funeral services;
  - (6) Is conducted by individuals considered experts in the subject matter of the program by reason of education, training, or experience; and
  - (7) Is accompanied by a paper, manual, or written outline which substantially describes the subject matter of the program.

b. Except as may be allowed by the Board, a licensee shall not receive credit for:

- (1) Any funeral merchandise and/or products, programs or tours; or
- (2) Duplicate programs taken within the previous two (2) years.

2. Any licensee in Arkansas who serves as a lecturer or discussion leader shall be given continuing education credit to the extent it contributes to the professional

competence of the applicant. Repetitious presentations shall not be counted. Not more than two (2) hours of the total annually required continuing education hours may be satisfied in this manner.

3. Sponsorship of Seminars. Any organization, supplier, group, or corporation wishing to sponsor a seminar, symposium, or other meetings with employees or licensees shall:

- a. Submit to the Board no less than sixty (60) days from the planned event, an application supplied by the Board outlining the event, speaker, and course description.
- b. Submit the application fee. Multiple events, seminars, and symposiums held at the same location while by the initial sponsor making application will be considered as the same event.
- c. Following a seminar approved by the Board, sponsors must, within thirty (30) days, complete and submit all paperwork required by the Board, including: names(s) of person(s) attending, license number, date of attendance, and hours completed.

5. Board Sponsored and Other Seminars

- a. The Board may provide an online list of accepted programs that are available to licensees. This list may include course offerings not only in Arkansas but also in other states as deemed necessary by the Board to make available to its licensees as wide a variety of courses and offerings as possible.
- b. The Board may sponsor continuing education programs. The Board may make these programs available to licensees by registration and an applicable fee as set to cover expenses of these events. Written evidence of attendance shall be issued by the Board at these events to meet the requirements as set forth by the Board.

6. Professionally Recognized Organizations- Organizations exempt from the application fee for courses offered to licensees in the continuing education requirements are:

- a. The National Funeral Director's Association (NFDA);
- b. The National Selected Morticians (NSM);
- c. The Order of the Golden Rule (OGR);
- d. The Tri-State Funeral directors meeting held jointly by the States of Arkansas, Mississippi and Louisiana;
- e. The National Funeral Directors and Morticians Association (NFD&MA);
- f. The National Foundation of Funeral Service;
- g. Accredited College(s) of Mortuary Science;
- h. Any educational institution licensed by the State Board of Higher Education in Arkansas;

- i. Preferred Funeral Directors International (PFDI);
- j. The Academy of Professional Funeral Service Practice;
- k. The Arkansas Funeral Directors Association (AFDA);
- l. The Arkansas Funeral Directors and Morticians Association (AFD&MA);
- m. Quad State Funeral Directors and Morticians Association;
- n. Any Academy approved CE unit;
- o. Northeast Arkansas Funeral Directors;
- p. Northwest Arkansas Funeral Directors;
- q. Central Arkansas Funeral Directors;
- r. Southeast Arkansas Funeral Directors; and
- s. Southwest Arkansas Funeral Directors.

#### M. Program Integrity and Accessibility by the Board

1. Each continuing education course or workshop already approved by the Board may be monitored or reviewed by the Board. Upon evidence of significant variation in the program presented from the program application submitted and approved by the Board, all or any part of the approved hours granted the program may be disapproved.
2. Board members and Board employees shall be admitted to any scheduled seminar, session, or event approved for continuing education credits at no charge, for the sole intent and purpose to monitor the licensees present and the content of the course. Board members and staff, however, cannot claim any course credit for such meetings where they served as monitors of the licensing requirement. Any sponsor of a course held out for the funeral directors or embalmers of this state shall not deny any Board member or Board staff access to the courses or significant paperwork as to attendance or course matter when requested.
3. No sponsor, individual, corporation, or agency having been approved by the Board to present continuing education courses, shall represent to the Board that persons who did not actually attend the course or did not complete the course work, in fact, attended, or completed the work, whichever the case may be. If the sponsor, individual, corporation or agency is a license holder, that individual or entity will be subject to disciplinary action.

#### N. Committee to Oversee Continuing Education

1. The Board shall be empowered to appoint a committee from itself or its membership, or staff, to oversee the application process and also appoint monitors if it so desires.
2. In the event of a denial, in whole or in part, of any application for accreditation or approval of a continuing education course or workshop, the applicant or licensee shall have a right to request that the matter be discussed at the next regularly scheduled Board meeting.

## **Section 21. Preparation and Preservation of the Human Dead**

- A. Universal Precautions. In handling and preparing dead human bodies for final disposition, any person who comes in direct contact with an unembalmed dead human body or who enters a room where dead human bodies are embalmed, shall use universal precautions and otherwise exercise all reasonable precautions to minimize the risk of transmitting any communicable disease from the body. All persons present in a preparation and embalming room while a body is being prepared for final disposition must be attired in accordance with all applicable state and federal regulations regarding the control of infectious disease and occupational and workplace health and safety.
- B. Preparation procedures; controlled access to preparation room. The preparation of a dead human body for final disposition shall be performed in privacy. No person shall be permitted to be present in the preparation room while a dead human body is being embalmed, washed, or otherwise prepared for final disposition, except:
  - 1. Licensed embalmers;
  - 2. Registered apprentices or students;
  - 3. Public officials or their representatives in the discharge of their official duties;
  - 4. Licensed medical personnel; and
  - 5. Employees of the Type A establishment, whether licensed or not.

Type A establishments may work with family and friends of the deceased to allow for their participation in the washing and dressing of the body in a private location. It is permissible to allow the family into the preparation room for this limited purpose.

- C. Embalming or refrigeration required.
  - 1. A dead human body must be refrigerated, or packed in dry ice, or it must be embalmed by a licensed embalmer or registered apprentice or practicum student or clinical student in the following circumstances:
    - a. If the body will be transported by public transportation;
    - b. If final disposition will not occur within twenty-four (24) to forty-eight (48) hours after death or release of the body by a competent authority with jurisdiction over the body or the body will be lawfully stored for final disposition in the future; or
    - c. If ordered by the director of health for the control of infectious disease and the protection of the public health.
- D. Authorization to embalm. No dead human body shall be embalmed without written authorization. Written authorization to embalm a dead human body must be obtained from either the individual lawfully entitled to custody of the body, or the individual's legal designee, and the authorization must be obtained as soon as possible following the death. Oral permission to embalm shall constitute an effective authorization to embalm if the individual seeking permission to embalm uses the word "embalm", briefly explains the nature of embalming, briefly outlines the existing laws regulating the timing and

reasons for embalming, and obtains written authorization as soon as is possible thereafter. The original written authorization to embalm shall be maintained in the records of the funeral establishment that causes the embalming to be performed, and a copy of the authorization must be delivered to the person who has legal right to control the disposition, or that person's legal designee. Pre-death directives authorizing embalming, duly executed by the deceased, shall be given full legal effect and shall constitute effective authorization to embalm under this section. When embalming is required, permission to embalm shall, as a matter of law, be implied.

- E. Authorization to embalm; required form. A written authorization to embalm must contain the required information:
1. The date of the authorization;
  2. The name of the funeral establishment that will perform the embalming;
  3. The name, address, and relationship to the decedent of the person signing the authorization;
  4. An acknowledgment of the circumstances where embalming is required by law;
  5. A statement certifying that the person signing the authorization is the person with legal right to control the disposition of the body as prescribed in Ark. Code Ann. § 20-17-102 or that person's legal designee;
  6. The name and signature of the person requesting the authorization and that person's relationship to the funeral establishment where the procedure will be performed; and
  7. The signature of the person who has the legal right to control the disposition or his or her legal designee.
- F. Embalmer required. Embalming of a dead human body shall be performed only by an individual holding a license to practice mortuary science in Arkansas, a registered apprentice pursuant to Ark. Code Ann. § 17-29-301(b)(1), or a student registered for a practicum or clinical through an accredited college or university or a college of a funeral service education accredited by the American Board of Funeral Service Education. An individual who holds a funeral director only license is prohibited from engaging in the embalming of a dead human body.
- G. Bodies awaiting final disposition. All bodies awaiting final disposition shall be kept in an appropriate holding facility or preparation and embalming room. The holding facility must: be secure from access by anyone except the authorized personnel of the funeral establishment; preserve the dignity and integrity of the body; and protect the health and safety of the personnel of the funeral establishment.

## **Section 22. Record Retention**

A. Type A Funeral Establishments- required records. Every Type A establishment shall, at a minimum, retain a copy of the following records:

1. Each statement of funeral goods and services selected;
2. Burial site goods;
3. Burial site services selected;
4. Death certificate;
5. Embalming case report, if applicable;
6. Cremation authorization form, if applicable;
7. Authorization to release from place of death;
8. Authorization to release to another funeral provider, if applicable;
9. Disposition;
10. The name of the decedent and the date of death;
11. The reason for embalming the body;
12. The name, address, and relationship to the decedent of the person who authorized the embalming of the body;
13. The date the body was embalmed, including the time begun and the time of completion;
14. The name, license number, and signature of the embalmer who performed or personally supervised the intern or student who performed the embalming;
15. The name, permit number if applicable, and signature of any intern or practicum student or clinical student who performed all or part of the embalming; and
16. The original written authorization to embalm and any other supporting documentation that establishes the legal right of the funeral establishment to physical custody of the body and to embalm the body.

B. Funeral establishments must retain and make available for inspection, true and accurate copies of the records as specified in Subsection A of this section, for a period of seven (7) years from the date of the arrangement conference. Following this period, and subject to any other laws requiring retention of records, the funeral establishment may then place the records in storage or reduce them to microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original records, or the establishment may transfer the records to the Arkansas State Archives, an agency of the Department of Arkansas Heritage for permanent storage.

C. Type B Funeral Establishments- required records. Every Type B establishment that causes a dead human body to be embalmed shall create and maintain on its premises or other business location in Arkansas, an accurate record of every embalming performed. The record shall include all of the following information for each embalming:

1. The name of the decedent and the date of death;
2. The date the funeral establishment took physical custody of the body, and if applicable, the name of the person releasing the body to the custody of the funeral establishment;

3. The reason for embalming the body;
4. The name, address, and relationship to the decedent of the person who authorized the embalming of the body;
5. The date the body was embalmed, including the time begun and the time of completion;
6. The name, license number, and signature of the embalmer who performed or personally supervised the intern or student who performed the embalming;
7. The name, permit number, if applicable, and signature of any intern or practicum student or clinical student who participated in the embalming of a body, whether the intern or practicum student or clinical student performed part or all of the embalming;
8. The original written authorization to embalm and any other supporting documentation that establishes the legal right of the funeral establishment to physical custody of the body and to embalm the body.

D. Retention of records. Records required under Section 22, Subsection C shall be maintained for a period of three (3) years after the embalming of the body. Following this period and subject to any other laws requiring the retention of records, the Type B establishment may then place the records in storage or reduce them to microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original record, for retention for a period of seven (7) years from the date of the embalming of the body. At the end of this seven (7) year period and subject to any other laws requiring the retention of records, the establishment may destroy the records by any manner which protects the privacy of the individuals identified in the records.

E. Type C Funeral Establishment- required records. All crematory authorities shall retain the following records:

1. A cremation authorization form signed by an authorizing agent that identifies the funeral director arranging the cremation. The cremation authorization form shall be provided by the crematory authority, and shall contain the following information:
  - a. The identity of the human remains;
  - b. The name of the authorizing agent and the relationship between the authorizing agent and the deceased;
  - c. Authorization for the crematory authority to cremate the human remains;
  - d. Cremation Final Disposition Rights Form or a representation that the authorizing agent is unaware of any objection by any person who has a right to control the disposition of the remains, to the human remains being cremated; and
  - e. The name of the person authorized to claim the remains from the crematory authority.

2. A completed and executed burial transit permit or other disposition authorization signed by the authority having jurisdiction to authorize final disposition of a dead human body, as provided in the laws of this state or territory where death occurred, indicating that the human remains are to be cremated;
  3. A death certificate, fetal death certificate, or other disposition authorization signed by the authority having jurisdiction to authorize final disposition of a dead human body in the state, territory, or country where death occurred; and
  4. Any other documentation required by any county or municipality.
- F. If an authorizing agent is not available to execute the cremation authorization form, that person may delegate that authority to another person in writing, or, if located outside of the area, by sending the crematory authority a written communication that contains the name, address, and relationship of the sender to the deceased, and the name and address of the individual to whom authority is delegated, indemnifying the delegated individual and the crematory authority from all liability concerning the cremation. Upon receipt of the written communication, the crematory authority shall allow this individual to serve as the authorizing agent and execute the cremation authorization form, and the crematory authority shall be entitled to rely upon the cremation authorization form.
- G. Upon receipt of the human remains, the crematory authority shall furnish to the person who delivers such human remains, a receipt signed by both the crematory authority and the person who delivers the human remains, including the following information:
1. The date of delivery;
  2. The name of the person from whom the human remains were received, and that person's employer;
  3. The name of the person who received the human remains on behalf of the crematory authority;
  4. The name and license number of the crematory authority; and
  5. The name of the deceased.

The crematory authority shall retain a copy of this receipt.

- H. Records required under Section 22, Subsections E and G, shall be maintained for a period of three (3) years after the cremation of the body. Following this period and subject to any other laws requiring retention of records, the establishment may then place the records in storage or reduce them to microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original record, for retention for a period of seven (7) years. At the end of this seven (7) year period and subject to any other laws requiring retention of records, the establishment may destroy the records by any manner that protects the privacy of the individuals identified in the records.
- I. Type D Funeral Establishment- required records. Transport service firms are required to retain the following records:



1. The name of the deceased;
  2. The date of transportation;
  3. The location from which the body was picked up;
  4. The location to which the body was delivered;
  5. The time the body was picked up;
  6. The time the body was delivered; and
  7. Personal effects of the deceased, if any.
- J. Records required under Section 22, Subsection I shall be maintained for a period of three (3) years after the transportation of the body. Following this period and subject to any other laws requiring retention of records, the funeral establishment may then place the records in storage or reduce them to microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original record, for retention for a period of seven (7) years. At the end of this seven (7) year period and subject to any other laws requiring retention of records, the establishment may destroy the records in any manner that protects the privacy of the individuals identified in the records.

**Section 23. Standards of Service, Code of Ethics, and Professional Conduct**

- A. Use of Outside Services. No funeral director, embalmer, or establishment shall utilize the services of an independent contractor, trade embalmer, or any other outside provider if the funeral director, embalmer, or establishment knows, or reasonably should know, that such independent contractor, trade embalmer, or other outside provider is in violation of any rule or statute pertaining to the Board.
- B. All persons engaged in the profession of funeral directing, embalming, or the operation of a funeral establishment shall at all times act in a professional manner.
- C. Minimum standards of service include the following:
1. Members of the public shall be treated in a respectful manner;
  2. Establishments shall honor, in a timely manner, financial obligations to suppliers, distributors, or other persons with whom they conduct business;
  3. Any person who has been assessed a fee pursuant to a statute or rule of the Board, shall submit payment of the fee within the required timeframe;
  4. An establishment shall not unreasonably delay the filing of a certificate of death;
  5. An embalmer shall make every reasonable effort to return the viscera to the body cavity for final disposition. In the event the embalmer is unable to return the viscera to the body cavity, the viscera shall be placed in a non-porous biohazard container, labeled as such, and disposed of in a manner consistent with the disposition of the remains; and
  6. Licensees shall obey any lawful order entered by the Board pertaining to the licensee.
- D. Code of Ethics and Professional Conduct

1. Service to Families. When making arrangements, funeral directors, embalmers, and establishments (“licensees”) have a legal and ethical responsibility to provide fair, accurate, non-judgmental information, and competent services. Licensees should be mindful of the emotional vulnerability of those wishing to make arrangements. Further, licensees must:
  - a. Provide the consumer, for his or her permanent use, a copy of the establishment’s General Price List at the first meeting with the consumer;
  - b. Provide fair and consistent services to consumers without regard to religion, race, color, national origin, sex, sexual orientation or disability;
  - c. Provide funeral services with dignity and respect for the family, consumers, and the deceased;
  - d. Explain which products and services are required by law and which are optional;
  - e. State whether products offered for sale or use have been used before;
  - f. Ensure family decisions on all matters, including services, timing and prices, have been fulfilled, whenever reasonable;
  - g. Explain any documents presented to a consumer, including any that require a signature, and provide the person with copies;
  - h. Explain the option of embalming and the consequences of delayed embalming, when applicable; and
  - i. Obtain written permission from the next of kin or authorizing agent, to embalm or cremate.
  
2. Service to the Deceased. Licensees are trusted with the remains of deceased people, and there are legal and ethical responsibilities implicit in that trust. In matters regarding the deceased, licensees must:
  - a. Ensure that every deceased person is treated with care and dignity at the time of receipt, during all transportation, and all proceedings;
  - b. Treat all deceased persons in the preparation room with proper care and dignity, and properly cover them at all times;
  - c. Transport, hold and carry out the disposition of human remains only when all required permits and authorizations are held; and
  - d. Dispose of parts of human remains that are received with the body in a manner that is consistent with the manner used for the final disposition of the body, or in a manner that is consistent with applicable laws.
  
3. Service to the Public. Licensees have an ethical obligation to provide consumers and potential consumers of services and products with clear information to enable informed decision making. In matters regarding the consumers and potential consumers; a licensee must:
  - a. Provide complete and honest information about all services;
  - b. Provide, at the first meeting, a full written list of the prices of the services the consumer has selected; and

- c. Ensure all advertising, including products, services and pricing, is clear, truthful and presented in a manner that is not misleading.
4. Compliance with the law and respect for the profession. Licensees have a legal and professional responsibility to comply with all applicable laws and regulations, and an ethical responsibility to represent the profession in an honorable manner. In matters regarding the laws and profession, a licensee shall:
- a. Comply with all licensing and permit requirements established by regulatory bodies;
  - b. Comply with all laws and regulations relating to the profession;
  - c. Respect the authority and oversight of the Board, and comply with all requests to appear before the Board;
  - d. Maintain a high level of professional courtesy by being respectful to, and positive about, colleagues;
  - e. Ensure all establishment employees are aware of, and comply with, the code of ethics at all times;
  - f. Refrain from engaging in any unfair or deceptive acts or practices defined in the FTC's Funeral Rule;
  - g. Comply with any preventive requirements specified in the Funeral Rule;
  - h. Refrain from engaging in any act, omission, or practice that is misleading or deceptive; and
  - i. Disclose whether there is a markup on a cash advance item, and state whether the licensee has received a rebate, commission, or trade or volume discount when the price is not the same as the licensee's cost. If there is a markup on a cash advance item or if the licensee receives a commission, discount or rebate that is not passed on to the consumer, the licensee cannot state that the price charged for the item is the same as the licensee's cost.
5. Records
- a. All records subject to inspection by FTC officials as provided in the Funeral Rule shall also be made available to the Board and its representatives under the same terms.
  - b. A licensee shall submit, upon request by the Board or its representative, any records kept by the licensee in the normal course of business.

This Rule is effective January 1, 2022.