

ARKANSAS STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

Proposed Rule and Regulations

RULE I 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 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, tag or over the radio or television station.

2. APPRENTICE. A person who is engaged in learning the practice of embalming or the business of funeral directing, as the case may be, under the instruction and direct personal supervision of a duly license embalmer or funeral Director of the State of Arkansas, who is duly registered as such.

3. ARKANSAS CODE. Arkansas Statutes pertaining to the funeral industry.

4. ARRANGER. The person or persons arranging for any type of service following or in advance of a death.

5. AUTHORIZING AGENT(S). An authorizing agent(s) is a person legally entitled to order the cremation of human remains. An authorizing agent shall be the next of kin of the deceased. In the absence of a next of kin, an order from a court of appropriate jurisdiction shall be obtained. In the case of indigents or any other individuals whose final disposition is the responsibility of the state, a public official charged with arranging the final disposition of the deceased, if legally authorized may serve as the authorizing agent. 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. If the deceased has authorized their own cremation by a pre-need arrangement, then any person acting on those instructions will be considered legally authorized, unless such authorization is in conflict with the wishes of the deceased next of kin.

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. BI-UNIT. A method of price quotation for professional funeral service which provides a two part price for the funeral and is made up of two basic figures; one is the price for the professional services and the use of facilities, the other is the price for the casket selected.~~

7. BOARD. As used in these Rules and Regulations shall mean the Arkansas State Board of Embalmers and Funeral Directors or any successor thereof.

8. CASH ADVANCE or CASH ACCOMODATIONS. Monies paid to outside parties by the funeral director or the funeral service firm on behalf of the arrangers.

9. CASKET. A rigid container in which the dead body is placed for use in religious services or other ceremonies, transportation of 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. That final rite or ceremony preceding the final disposition of the body,

12. CREMATION/CALCINATION. The technical process, using heat, that reduces human remains to bone fragments, which may be reduced to a powdery substance. The reduction takes place through heat and evaporation.

13. CREMATORY. The building or portion of a building that houses the cremation chamber and the holding facility.

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 cremation 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 unidentified 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. During the apprenticeship period the supervisor of all embalmers and/or funeral directors must be readily accessible on the premises wherever embalming and/or funeral directing is preformed.

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 substance, 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 of cavities.

22. EMBALMING. The art of a person 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. 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.

26. FUNERAL ESTABLISHMENT or FUNERAL HOME. Every 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.

27. 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 except mausoleums, crypts, interment receptacles preset in a cemetery and columbarium niches.

28. FUNERAL SERVICE or FUNERAL. A period following death in which there are religious services other rites or ceremonies with the body of the deceased present.

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. 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.

32. 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.

33. IN STATE. That period when the body is in the “Funeral Establishment”, or any other place, for the purpose of a wake, visitation, or reviewal viewing whether the “casket” or “receptacle” is open or closed and whether the wake, visitation, or reviewal viewing is public or private.

34. INTERMENT RECEPTACLE. An enclosure into which the casket is placed.

35. MEMORIAL SERVICE. A gathering of persons for a program in recognition of a death without the presence of the body of the deceased.

36. 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.

37. 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.

~~38. MULTI UNIT. A method of price quotation for professional funeral service which provides the prices for the various facets of the funeral according to their general function or use, generally including, but not limited to, such items as professional services, embalming, facilities, automotive equipment, casket and other merchandise or its representative.~~

38. NICHE. A compartment or cubicle for the memorialization or permanent placement of an urn containing cremated remains.

39. SCATTERING AREA. A designated area for the scattering of cremated remains.

~~40. SINGLE UNIT. A method of price quotation for professional funeral services which provides a single price for the funeral including the professional services and the use of the facilities and casket.~~

40. TEMPORARY CONTAINER. A temporary container is a receptacle for cremated remains usually made of cardboard, plastic film or similar material designed to hold the cremated remains until an urn or other permanent container is acquired.

41. TO MAKE ARRANGEMENTS. Advising, counseling, and/or entering into agreements about specifics for any services in advance of or following a death.

42. TRANSPORT SERVICE FIRM. Any person, partnership, enterprise, corporation, association, society, other legal entity, or other form of organization which engages in providing transportation of the human dead for hire.

~~43. TRI UNIT. A method of price quotation for professional funeral services which provides a three part price for the funeral and is made up of three basic figures, one is the price for the professional services, the second is for the use of facilities, and the third is the price of the funeral merchandise selected.~~

43. URN. A receptacle designed to permanently encase the cremated remains.

RULE II LICENSEE IN CHARGE OF FUNERAL DIRECTING AND EMBALMING

1. Every funeral conducted within the State of Arkansas must be under the supervision and direction and ~~in~~ charge of a funeral director who holds a valid license from this Board. To conduct a funeral shall require the direct personal supervision of a licensed funeral director until final disposition is completed.

2. The embalming of a dead human body shall require the presence and/or direct supervision of a duly licensed embalmer. Duly registered apprentice embalmers may do embalming procedures under the direct personal supervision of a duly licensed embalmer.

RULE III LICENSEE IN CHARGE OF ALL CARE AND DISPOSITION OF HUMAN DEAD.

1. Any person, partnership, enterprise, corporation or any other form of organization holding themselves 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 and to comply with the Rules and Regulations of the Board pertaining to said care and disposition.

RULE IV FUNERAL ESTABLISHMENTS

1. ~~Two~~ Four types of funeral establishment licenses shall be issued by the Board. These establishment licenses shall be named as follows:

- (a) Funeral Establishment Type A-Full Service Funeral Firm.
- (b) Funeral Establishment Type B-Mortuary Service Firm
- (c) Funeral Establishment Type C-Crematory
- (d) Funeral Establishment Type D-Transport Service Firm

2. FUNERAL ESTABLISHMENT TYPE A-FULL SERVICE FUNERAL FIRMS

(a) A license for the operation of funeral establishment Type A shall be issued by the Board, if the Board finds:

(1) That the establishment is under the general management and supervision of a duly licensed funeral director.

(a.) The name of the general manager and owner of each funeral establishment shall be reported annually to the Board on forms provided by the Board.

(b.) If the funeral director serving as the general manager of a funeral establishment shall leave the employment of the establishment, for any reason, the establishment shall notify the Board of the management change within ten (10) working days, and of his/her successor within thirty (30) days.

(2) That all embalming performed therein is performed by or under the direct personal supervision of a duly licensed embalmer.

(3) That any place in the funeral establishment Type A where embalming is performed contains a preparation room with a sanitary floor, walls, and ceiling, and adequate sanitary drainage and disposal facilities including running water and complies with the sanitary standards prescribed by the Department of Health for the prevention of the spread of contagious, infectious or communicable diseases.

(4) Each funeral establishment Type A must have a display room and at least five (5) caskets, or there must be a branch establishment within a reasonable distance (not

to exceed forty (40) miles), which is available, and does have a display room and at least five (5) caskets.

(5) When an establishment is sold or changes ownership, the Board shall be notified, in writing, within thirty (30) days, the license in force and effect shall be honored, for the new owner, until that license has expired. At that time, a new license shall be issued in the name of the new establishment.

(6) When an establishment closes, the Board shall be notified, in writing, within 7 days of the date of closure; and the license in force at the time of closure shall be returned to the Board office.

(b) The Board shall grant or deny each application for a funeral establishment license Type A under provisions of this section after it is filed. No applicant may operate a funeral establishment Type A until notification by the Secretary of the Board that a license has been or will be issued.

(c) Funeral establishment licenses Type A shall be issued under this section upon application and after examination of the establishment to be licensed. The application fee shall be fifty (\$50.00) dollars.

(1) Renewal of all funeral establishment licenses Type A must be made on or before January 31st of each year and must be accompanied by the annual renewal fee of one hundred and fifty (\$150.00) dollars.

(2) Licenses not renewed by January 31st of any year shall be considered delinquent and may be grounds for disciplinary action by the Board.

(d) Each funeral establishment using an available embalmer must file with the Board a statement signed by the embalmer, notarized, stating that his services are available to said establishment at all times within a reasonable time after death occurs, not to exceed six (6) hours.

(e) Mobile homes, mobile units, manufactured homes, et cetera, may be granted a replacement license on a case by case basis.

(f) 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 funeral director is responsible for the supervision of all work performed by his agents and employees. License invalidation procedures may be brought against a licensed funeral director and funeral establishment because of the acts of their agents or employees which violate Chapter 29 Arkansas Code or the Rules and Regulations of this Board.

(g) 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 of funeral establishment will be held accountable for the actions of all sales personnel. Such personnel are specifically prohibited from the following:

- (1) Making misrepresentations to potential purchasers of funeral merchandise.
- (2) Placing or causing to be placed false or misleading advertising.
- (3) Making false statements about funeral establishments, funeral directors, or embalmers not associated with the establishment the personnel represents.

3. FUNERAL ESTABLISHMENTS TYPE B-MORTUARY SERVICE FIRMS

(a) Mortuary service firms are agents of a Type A establishment and as such do not make arrangements with the public. A license for the operation of a mortuary service firm, funeral establishment Type B, shall be issued by the Board if the Board finds:

(1) That the firm is under the general management and supervision of a duly licensed funeral director and embalmer.

(a.) The name of the general manager of the mortuary service firm shall be reported annually to the Board on forms provided by the Board.

(b.) Should the general manager of the mortuary service firm leave the employment of the firm during the year, for any reason, the mortuary service firm shall notify the Board of his/her leaving within ten (10) working days and of his/her replacement within thirty (30) days.

(2) That all embalming performed in the mortuary service firm's establishment is performed by or under the direct personal supervision of a duly licensed embalmer.

(3) That any place in a mortuary service firm where embalming is performed contains a preparation room with a sanitary floor, walls, and ceiling and adequate sanitary drainage and all disposal facilities including running water and complies with the sanitary standards prescribed by the Department of Health for the prevention of the spread of contagious, infectious or communicable diseases.

(4) When a mortuary service firm is sold or changes ownership, the Board shall be notified, in writing, within thirty (30) days. The license then in effect shall be honored, for the new owner, until that license has expired. At that time, a new license shall be issued in the name of the new firm if said firm complies with all applicable laws, rules and regulations.

(5) When a mortuary service firm closes, the Board shall be notified, in writing, within 7 days of the date of closure; and the license in force at the time of closure shall be returned to the Board office.

(b) The Board shall grant or deny each application for a mortuary service firm under the provisions of this section after it is filed. No applicant may operate a mortuary service firm until notification by the Secretary of the Board that a license has been or will be issued.

(c) Mortuary service firm licenses shall be issued under this section upon application and after examination of the firm and its establishment to be licensed. The application fee shall be fifty (\$50.00) dollars.

(1) Renewal of all mortuary service firm licenses must be made on or before January 31st of each year and must be accompanied by the annual renewal fee of one hundred and fifty (\$150.00).

(2) Licenses not renewed by January 31st of any year shall be considered delinquent and may be grounds for disciplinary action by the Board.

(d) Each mortuary service firm using an available embalmer must file with the Board a statement signed by the embalmer, notarized, stating that his/her services are available to said firm at all times within a reasonable time after death occurs, not to exceed six (6) hours.

(e) Mobile homes or mobile units are prohibited for use as a mortuary service firm establishment 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, except in the case of an emergency as prescribed by the Board. Mobile home, modular units, manufactured homes and similar mobile units may be granted a replacement license on a case by case basis.

(f) 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 funeral director/embalmer in providing the services of the business of funeral directing/embalming. License invalidation procedures may be brought against a licenses funeral director and licensed embalmer and/or a licensed mortuary service firm because of the acts of their agents or employees which violate Chapter 29 of the Arkansas Code, or the Rules and Regulations of this Board.

(g) A mortuary service firm is prohibited from providing funeral service and/or 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 except at the request of and as the agent of a licensed funeral establishment or its representative.

(h) A funeral establishment Type-B mortuary service firm shall not be required to have a selection room or display any caskets.

~~CREMATION RULES AND REGULATIONS~~

~~ESTABLISHMENT OF CREMATORY AND LICENSURE OF CREMATMORY~~

~~AUTHOORITY~~

4. FUNERAL ESTABLISHMENT TYPE C-CREMATORY

~~I DEFINITIONS~~

(A) A crematory is an agent of a Type A establishment and as such does not make arrangements with the public.

1 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 these rules and regulations.

2. A crematory shall conform to all local building codes and all applicable environmental standards.

3. 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 at other location consistent with local zoning regulations.

4. Application for licensure as a crematory authority shall be on forms furnished and prescribed by the Board. Application shall be in writing and shall contain the name of the type of structure, and equipment to be used in the operation of the crematory and any further information as the Board may reasonably require. The Board shall examine the premises and structure to be used as a crematory, and shall issue a license to the crematory authority, if the applicant meets all requirements of these rules and regulations. In the event of a change of ownership of a crematory, at least thirty (30) days prior to the change, the new owners of the crematory authority shall provide the Board with their names and addresses.

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

6. 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 these rules and regulations.

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

8. All crematory licenses issued by the Board shall expire on December 31st of each year, and must be renewed on or before January 31st following the date of expiration. Renewal license fees, established by the Board, must accompany each original and renewal application.

9. All renewals received after January 31st of each year are considered delinquent. The Board may impose delinquent fees and/or order a crematory authority that is delinquent in its renewal to cease operation until a renewal card has been issued by the Board.

10. 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.

B. 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 should contain the following information:

(a.) The identity of the human remains;

(b.) The name of the authorizing agent and the relationship of the authorizing agent and the deceased;

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

(d.) A representation that the authorizing agent is aware of no objection to the human remains being cremated by any person who has a right to control the disposition of the human remains; and

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

b. A completed and executed burial transit permit, as provided in the laws of the State of Arkansas, indicating that the human remains are to be cremated, and;

c. A representative (Example: Office Copy) of a completed Arkansas death certificate or fetal death certificate, signed by the certifier, showing the cause of death and otherwise ready for filing.

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 telegram, registered letter, or facsimile transmission 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 delegation document or a copy of this telegram, 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 should maintain the necessary records as set out in these rules and regulations.

a. 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.

b. The crematory authority should retain a copy of this receipt.

c. A crematory authority should 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 "II B 1, "through "3" of these rules and regulations and in addition the date the cremation and distribution or disposition by the crematory authority of the cremated remains took place.

4. 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.

C. 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 subsection "II.C.1 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 cremation authority personnel may open the cremation container for inspection of the body.

D. 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. No member of the general public shall be permitted in the crematory area while any human remains are in the crematory area waiting cremation, being cremated or being removed from the cremation chamber.~~

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 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 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 "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 returned to the authorizing agent or its representative in a separate container.

d. When a temporary container is used to return the cremated remains, that container shall be placed in a suitable box and all box seams taped closed to increase the security and integrity of that container. The outside of the container 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 which is not fragile and is sealed properly. Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

7. Embalming or refrigeration shall not be required for a forty-eight (48) hour period after death prior to cremation when an authorizing agent has indicated a preference for cremation as the form of final disposition. This twenty-four (24) hour extension of the Board's time limit for embalming or refrigeration does not apply if death was the result of an infectious or communicable disease as defined by the proper regulatory authorities.

E. DISPOSITION OF CREMATED REMAINS

1. The authorizing agent shall be required to provide the person with whom cremation arrangements are made with 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 sixty (60) days from the date of cremation, the authorizing agent or his 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. A record of such disposition shall be made and kept by the person making such 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 lands, the sea or other public waterways pursuant to subsection F, 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.

4. Except with the express written permission of the authorizing agent no person 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.

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 these rules and regulations.

6. Cremated remains may be scattered over uninhabited public lands, a public waterway or sea, subject to the health and environmental standards, or on the private property of a consenting owner pursuant to Subsection C, if they are reduced to a particle size of one-eighth (1/8) inch or less. A person may utilize a boat or airplane to perform such scattering. Cremated remains shall be removed from their closed container before they are scattered.

F. LIMITATION OF LIABILITY

1. Each cremation authority form used by a crematory authority shall include language that authorized 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 law and these rules and regulations in at least the following areas.

a. Any person signing a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth in the cremation authorization 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 there from.

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:

(a) It is aware of any dispute concerning the cremation of human remains.

(b) It has a reasonable basis for questioning any of the representations made by the authorizing agent, or

(c) 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.

~~2. Each crematory authority shall submit its cremation authorization form to the Board prior to using said form. The Board shall approve the use of the form if it contains the provisions listed in this section of these rules and regulations and is consistent with them and all applicable law.~~

G. ADMINISTRATION

1. A crematory authority may enact additional reasonable rules and regulations, not inconsistent with applicable law and these rules and regulations, for the management and operation of a crematory. Nothing in this provision shall prevent a crematory authority from enacting rules and regulations which are more stringent than the provisions contained in these rules and regulations.

2. Violations of these rules and regulations shall be punishable in accordance with all applicable law and pertaining to the Board (specifically including the powers provided in ACA 17-29-403 and/or ACA 17-29-312). 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 the rules and regulations of the Board or other applicable regulatory bodies.

b. Holding oneself out to the public as a crematory authority without being licensed under these rules or regulations, 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.

e. Violation of any other provision of these rules and regulations.

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

H. PRE-NEED CREMATION ARRANGEMENTS

1. Any pre-need contract sold by, or pre-need funeral arrangements made with a cemetery, funeral establishment or any other party, that includes a cremation, may specify the ultimate disposition of the cremated remains, pursuant to Section "II.E", and that portion of the agreement shall be initialed by the individual making the arrangements. In the event no additional or different instructions are provided to the crematory authority by the authorizing agent at the time of death, the crematory authorized to release or dispose of the cremated remains as indicated in the pre-need agreement.

2. a. Any person, on a pre-need basis, may authorize their own cremation and the disposition of their cremated remains, on a pre-need cremation authorization and signed by the person as authorizing agent and by two witnesses. 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 designated. Any person shall have the right to transfer or cancel this authorization at any their death by providing written notice to all applicable parties.

b. 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 their best efforts to ensure that the deceased is cremated and disposed of according to the instructions contained on the pre-need cremation authorization form.

c. The provision of this section shall only be applicable if the cremation is not in conflict with the wishes of the next of kin of the deceased. The next of kin of the deceased shall have the right to choose another form of final disposition, other than cremation, at the time of the person's death, unless such change is in conflict with current Arkansas law.

I. 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 after the promulgation of these rules shall construct their crematory 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.

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.

J. MISCELLANEOUS

1. Acceptance of a license issued by the Board gives a Board representative the right to inspect the crematory and the records of the crematory authority at any time.

2. The holders of licenses issued by the Board shall also hold current, unexpired licenses issued by all other applicable regulatory agencies. Failure to hold such other licenses or permits shall be considered a violation of these rules and regulations.

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 valid, current funeral establishment license as issued by this Board, either by a licensed funeral director or other representative of the establishment except as otherwise noted in these rules and regulations.

6. Records required by these rules and regulations of crematory authorities, disposition authorities, and other parties shall be kept for a minimum of five (5) years from the date of cremation.

7. Crematory authorities operating in this state as of December 1, 1989 shall:

a. Be exempt from the fire safety standards contained in these rules and regulations (Section II., I., 2. a and b) as long as they are operating in their current facilities.

b. Be issued a license by the Board and given adequate time to comply with the requirements of these rules and regulations as they pertain to inclusions in their authorization forms.

c. Not be responsible for record keeping requirements imposed by these rules and regulations for cremations occurring before their adoption.

~~III — TRANSPORT SERVICE FIRMS RULES AND REGULATIONS~~

4. FUNERAL ESTABLISHMENT TYPE D-TRANSPORT SERVICE FIRM LICENSURE

~~A. Licensure~~

~~A. A transport service firm is an agent of a Type A establishment and as such is prohibited from making arrangements with the public.~~

1. No transport service firm headquartered or having an office in the State of Arkansas shall operate in this state without a current, valid license issued by this Board.

2. Application for licensure as a transport service firm shall be made on forms provided by the Board, identifying the ownership and the general manager of the firm.

3. A license for the operation of a transport service may be issued by the Board if the Board finds:

a. That the firm is under the general management and supervision of a person approved by the Board.

~~(a.) The general manager of a transport service firm must provide the Board with three (3) letters of reference, sworn statements from persons, one of which must be the manager of a funeral establishment licensed by the Board. attesting to the moral character and reputation of the general manager of the firm.~~

~~(b.) The general manager of a transport service firm must be of good moral character and reputation and must be at least twenty-one (21) years of age.~~

~~(c.) The name of the general manager of a transport service firm shall be reported annually to the Board.~~

~~(d.) Should the general manager of a transport service firm leave the employment of the firm during the year for any reason, the transport service firm shall notify the Board of his/her leaving within ten (10) working days and the name of the new general manager within thirty (30) working days. Any new general manager shall meet all Board requirements for that position.~~

b. That any person employed by a transport service firm as a driver is:

~~(a.) Of good moral character.~~

(a.) Eighteen years of age or older, and

(b.) the holder of a valid driver's license as issued by the

appropriate State of Arkansas agency.

c. Vehicles used by the transport service firm are suitable for the purpose for which they are being used by the firm in the transport of the human dead.

(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 weather conditions or terrain.

(f.) All vehicles must be kept clean and sanitary and maintained in good and serviceable condition.

B. All transport service firms shall carry liability insurance coverage of not less than five hundred thousand dollars (\$500,000.00). The policy Coverage shall specifically indicate that the coverage is for the transport of the human dead. ~~incurred from the transport of the human dead.~~ Proof of required insurance shall be provided to the Board prior to issuance of an original or renewal license.

C. When a transport service firm is sold or changes ownership, the Board shall be notified, in writing, within thirty (30) days of finalization of the sale or change of ownership. The license in effect shall be honored for the new owner until that license has expired. Upon expiration, a new license shall be issued in the name of the new firm if said firm complies with all applicable laws, rules and regulation. ~~Change of ownership applications shall be made on forms provided by the Board within thirty (30) days of finalization of the change of ownership.~~ When a transport service firm is closed, the Board shall be notified, in writing, with seven (7) days of closure, and the license in force at the time of closure shall be returned to the Board office.

D. The Board shall grant or deny each application for a transport service form within thirty (30) days after it is filed. No applicant may operate a transport service firm until notification by the secretary of the Board that a license has been or will be issued.

E. 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 licenses expire on December 31st of each year and must be renewed by January 31st.

1. An application fee shall accompany each application for licensure or renewal.

2. Renewal of all transport service firm licenses must be accompanied by the annual renewal fee.

3. Licenses not renewed by January 31st of any year shall be considered delinquent and may be grounds for disciplinary action by the Board.

F. The general manager of a transport service firm may hire such employees as may be needed to assist him or her in providing the service of a transport service firm. Said general manger 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. License invalidation procedures may be brought against the firm and its general manager because of acts or omissions of their employees and agents which violate any applicable law or the rules and regulations of the Board.

G. A transport service firm may only act at the request of and as the agent of a licensed funeral establishment or its representative.

H. A transport service firm is prohibited from providing shelter, care, or custody of the human dead except as provided in by law and in these and the other rules and regulations of the Board. This does not prohibit a licensed funeral director or embalmer acting as an agent and at the request of a licensed funeral establishment or its representative from providing those services.

I. Holders of funeral establishment licenses issued by the Board are exempt from any requirement to hold a separate transport service firm license.

J. The dignity of the deceased person shall be respected at all times by the transport service firm and its personnel.

K. Acceptance of a license issued by the Board gives a Board representative the right to inspect the office of the transport service firm, its vehicles, and the records of the firm at any time.

L. The holders of licenses issued by the Board shall also hold current, unexpired licenses issued by all other applicable regulatory agencies. Failure to hold such other licenses or permits shall be considered a violation of these rules and regulations.

M. When acting as an agent of a funeral establishment or in the course of their normal business, ambulance companies and licensed common carriers, (examples: airlines, freight companies, railroads, etc.) may transport the bodies of the human dead in and through this state without a transport service firm license issued by the Board.

~~N. Complaints concerning violations of these rules and regulations may be made by the Board itself, through itself, through its inspector, investigator, secretary, or other official, or by a member of the public.~~

~~1. All complaints shall be filled with the Secretary of the Board, on forms provided by the Board.~~

~~2. A copy of the complaint shall be sent to the licensee or party against whom the complaint has been filed.~~

~~3. The licensee or other party is to be given fifteen (15) days to respond, in writing, on forms provided by the Board, to the allegations made in the complaint.~~

~~4. All complaints and responses shall be typed, signed and notarized.~~

~~5. The secretary will review the complaint and response to see if further investigation is warranted. The secretary may cause to obtain statements or other information as necessary.~~

~~6. The complaint, response and other information, if any, will be forwarded to the Board legal counsel, the Arkansas Attorney General, and the Board members for review.~~

~~7. The Board will review the relevant documentation to determine what action should be taken.~~

~~8. If the Board feels there are reasonable grounds for belief the licensee or other party is guilty of violation of applicable law or these rules and regulations, then the Board will cause the secretary to issue an order and notice of hearing, which will be served on the licensee or other party by certified mail. This notice will contain information required by the Administrative Procedures Act.~~

~~9. The secretary shall give twenty (20) days written notice to the complainant of the time and place of the hearing. Failure to appear at the hearing is an automatic violation.~~

~~10. The hearing will be conducted by the president of the Board, in accordance with the Administrative Procedures Act. At all hearings, the Board will be provided legal counsel if necessary.~~

~~11. Applicable penalties may be imposed by the Board whether or not the violator holds a valid current licensee issued to an individual, funeral establishment, crematory authority, transport service, or other entity.~~

RULE V APPRENTICESHIP

1. Any person desiring to engage apprentice in the science of embalming in this state shall, ~~in addition to graduating from a college of Mortuary Science (Embalmer) recognized by this Board,~~ be 18 years of age, have graduated from an accredited high school or been issued a certificate of equivalency issued by the public school system or the military service, serve an apprenticeship of one (1) year, in the State of 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. This apprenticeship may be served before, during, or after attending mortuary school, except when receiving the State Assistance Grant to attend mortuary school, then the apprenticeship must be served prior to attending mortuary school.

2. Any person desiring to engage apprentice in the business of funeral directing in this state shall be 18 years of age, have graduated from an accredited high school or been issued a certificate of equivalency issued by the public school system or the military service. ~~He/she shall serve an apprenticeship of two (2) years in this state~~ an Arkansas licensed establishment under a funeral director licensed by this Board, and shall actively assist in the conducting of fifty (50) funerals. 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. ~~Notice of said apprenticeship shall be recorded with the secretary of the Board, and by the licensed funeral director supervising the apprenticeship, not later than thirty (30) days after commencement of said apprenticeship.~~ If any person is a graduate of an accredited Embalming or Funeral Directing school of mortuary science and has passed ~~both written and oral examinations given by the Board,~~ the National Conference Exam, that person shall be required to serve only one (1) year as an apprentice funeral director.

3. All funeral director and/or embalmer case reports must be filed in the Board inspector's office by the 10th of the month following the month in which work was actually performed.

4. 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. 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 twenty-four (24) months. After this twenty-four (24) month period, a person may register as an apprentice and begin the process from the beginning, including case reports.

5. All funeral director apprentices shall perform the following duties, and register the required number of services with the Board during his/her term of apprenticeship:

- (a) Ten (10) services – Either make the arrangements or observe the arrangements being made with the family, including the selection of merchandise.
 - (b) Five (5) services – Make the church set-up and organize how family and friends are to be directed.
 - (c) Ten (10) services – Direct family, or assist in doing so, at the funeral and cemetery service, and dismiss family and friends at the conclusion of the service.
 - (d) Five (5) services – Be in charge of the movement of the casket and instruct the pallbearers.
 - (e) Five (5) services – Organize the funeral procession, and determine where and how parking is to be done, either chapel or church, or any other place.
 - (f) Five (5) services – Arrange flowers.
 - (g) Five (5) services – Direct movement of people when viewing remains, at either chapel, church or any other place.
 - (h) Five (5) services – Organize “Order of Service” with minister and musicians.
- ~~6. All applicants for registration, as a student embalmer and student funeral director, must be a graduate of an accredited high school or hold a certificate of equivalency.~~

RULE VI QUALIFICATIONS OF APPLICANTS FOR EXAMINATION

1. Any person desiring to ~~practice~~ be examined in the science of embalming in the State of Arkansas ~~be a graduate of a recognized school of mortuary science accredited by the American Board of Funeral Service Education or this Board~~ must meet the requirements set forth for taking the National Conference Exam. Embalmer applicants for the Arkansas Laws Exam must have completed 18 months of their apprenticeship and/or have graduated from an accredited school of mortuary science.
2. Any person desiring to ~~engage~~ be examined in the business of funeral directing within the State of Arkansas ~~must be a graduate of an accredited high school. A certificate of equivalency issued by the public school system or the military service may be accepted in lieu of a high school diploma,~~ have completed 18 months of his/her apprenticeship.
- ~~3. Any person desiring to practice embalming or desiring to engage in the business of funeral directing must be of good moral character and must be at least 18 years of age.~~
3. Application for examination ~~and licensure~~, as either an embalmer or funeral director, must be made in writing, on forms provided by the Board. ~~Each application must be accompanied by two (2) sworn certificates from responsible persons attesting to the moral character and reputation of the applicant.~~
4. All applications for examination ~~and licensure~~ must be ~~sworn to by the applicant before some person authorized by law to administer oaths-notarized~~, and must be accompanied by the application fee of one hundred (\$100.00) dollars. ~~for embalmer examinations and one hundred (\$100.00) for funeral director examinations. Each application must be accompanied by two (2) sworn certificates from responsible persons attesting to the moral character and reputation of the applicant,~~

RULE VII EXAMINATIONS/LICENSURE

1. Regular examinations shall be held ~~in April and October each year~~ quarterly and/ or at the discretion of the Board.
2. Applicants for embalmer licenses shall ~~be examined on the following subjects:~~
 - ~~_____ (a) Anatomy~~

~~_____ (b) Bacteriology~~
~~_____ (c) Chemistry~~
~~_____ (d) Pathology~~
~~_____ (e) Mortuary Law~~
~~_____ (f) Embalming~~
~~_____ (g) Restorative Art~~
~~_____ (h) Mortuary Administration~~
~~_____ (i) Subjects the Board deems necessary~~
~~(j) An oral examination and a practical examination may also be given~~ take and
pass both parts of the National Conference Exam as well as both parts of the Arkansas Laws
Exam.

3. Applicants for a funeral director license shall be given a written and/or oral examination on information contained in the ~~on the following subjects:~~

- ~~_____ (a) Arkansas Laws, Rules and Regulations~~ Manual
- ~~_____ (b) Professional Ethics~~
- ~~_____ (c) Public Health Rules and Regulations~~
- ~~_____ (d) Funeral Conduct, including merchandising and cost accounting.~~
- ~~_____ (e) Veterans forms with form numbers~~
- ~~_____ (f) Social Security Benefits~~
- ~~_____ (g) Various Forms with Form numbers~~
- ~~_____ (h) Transportation Rules and Regulations~~
- (b) and any other such subjects the Board may deem necessary.

4. Applicants for a funeral director license shall be required to score 75 percent on both the written and oral parts of the Arkansas Laws Exam ~~examinations~~ to successfully pass that examination. Upon passing the examination, the applicant shall be entitled to receive, from the Board, a certificate to practice the business of funeral directing, provided all the other requirements have been met.

5. Applicants for an embalmer license shall be required to score a minim of 75 percent on both ~~written and oral examinations in order to successfully pass that examination.~~ parts of the National Conference Exam and a minimum of 75 per cent on both parts of the Arkansas Laws Exam. Upon passing the examinations, the applicant shall be entitled to receive, from the Board, a certificate to practice the science of embalming, provided all the other requirements have been met.

~~6. An applicant who has successfully passed the National Conference Examination, given by the Conference of Funeral Service Examining Boards, Inc., of the United States, and has been certified to this Board, shall be deemed to possess a knowledge of the Science of Embalming, Sanitation, and Disinfection. The written portion of the State Examinations may be dispensed with, provided the applicant is made within one (1) year after the receipt of the National Conference Examination Certification, regular application must be made to this Board, oral examination must be taken, and all other requirements must be met by the applicant.~~

6. All questions used on the Arkansas Laws Exam are the property of the Board, and must be returned by the applicants with their answers.

7. Any applicant giving assistance to another applicant or receiving assistance or found to have on his person material of any nature which, in the opinion of the Board, may be used to assist in the examination, shall forfeit the fee paid and be ejected from the examination, and shall not be entitled to any further consideration by the Board.

8. An applicant may qualify to take the ~~funeral directors~~ Arkansas Laws Exam at the completion of eighteen (18) months of his/her apprenticeship. ~~or at the semi annual meeting nearest to his/her completion of the two (2) year term. Requirement~~

9. Graduates of an accredited Mortuary (Embalming) School shall be immediately eligible to take the ~~embalmer and funeral director examination.~~ Arkansas Laws Exam.

RULE VIII LICENSE REQUIREMENTS FOR OUT OF STATE LICENSES

Any person holding a valid, unrevoked and unexpired license as an embalmer or funeral director in another state, U.S. Territory, or Provincial Authority, may apply for a license to practice in this state as an embalmer or funeral director, or both. Application shall be made by filing with the secretary-treasurer of the board a certified statement from the secretary of the examining Board of the state, U.S. Territory or Provincial Authority in which the applicant holds his/her license showing the basis upon which the license was issued. Upon receipt of the application, the secretary of the Board may issue temporary working numbers, which are valid for one year from the date of issuance. To obtain a license, the applicant shall pass an exam to prove his/her proficiency, including at least, but not limited to, knowledge of the laws, rules and regulations of this state pertaining to funeral service. The exam may be taken at one of the regularly scheduled exam sessions set by the Board. If the Board is satisfied with the proficiency of the applicant, upon receipt of the prescribed fees in 17-29-208, a license may be granted. Failure to meet the testing requirement shall result in the revocation of the temporary working numbers and the applicant must reapply and pay the appropriate fees.

RULE IX LICENSE RENEWALS AND REINSTATEMENTS

1. (a) All embalmer and funeral director licenses issued by this Board shall expire on December 31st of each year, and must be renewed on or before January 31st following the date of expiration.

(b) All establishment licenses expire on December 31st of each year, and must be renewed on or before January 31st following the date of expiration.

(c) Renewal fees, as provide for, must accompany each application for renewal.

(d) Every licensed embalmer and/or funeral director who is actively engaged in the practice of embalming and/or funeral directing in Arkansas shall ~~submit with the renewal application evidence of satisfactory completion of the hours of continuing education approved by the Board,~~ report 8 hours of approved continuing education on the renewal form.

(e) Failure to receive the renewal notice shall not relieve the licensee or establishment of the duty to pay the renewal fee as prescribed.

2. All renewals received after January 31st of each year are considered delinquent, and certificate holders are not allowed to practice the science of embalming or the business of funeral directing, until a renewal card has been issued for the current year. A delinquent fee of fifty (\$50.00) dollars for each three (3) months, or fraction thereof, with a maximum of two (2) years, must be remitted with a renewal fee of two (2) years, which will include the year renewed. Any person in arrears more than three (3) years must ~~make application to the Board, and appear~~ before the Board at a regular meeting.

3. When a certified embalmer or funeral director shall have failed to renew his/her certificate for a period of more than three (3) years, but who shall have practiced the science of embalming or the business of funeral directing in a foreign State or Province, and upon satisfactory proof, and upon producing two (2) affidavits by responsible persons to that effect,

may be reinstated upon payment of the specified renewal fee, to wit: A delinquent fee of Fifty dollars (\$50.00) for each three (3) months, or fraction thereof, with a maximum of two (2) years, must be remitted with a renewal fee of two (2) years, which will include the year renewed. A renewal certificate, bearing the same number as the original certificate, shall be issued.

4. A licensed embalmer and or funeral director who fails to renew his/her license for a period of five (5) years, in addition to appearing before the Board and paying the required delinquent fees of fifty (\$50.00) dollars per quarter, per license for a maximum of two (2) years, plus the license fees for those two (2) years, shall be required to take and pass the Arkansas Laws written and oral exams.

RULE X DUPLICATE EMBALMER, FUNERAL DIRECTOR AND FUNERAL ESTABLISHMENTS LICENSES

1. A charge or fee of twenty (\$20.00) dollars shall be made for the issuance of a duplicate embalmer, funeral director, or establishment license. This fee shall apply to each duplicate license issued. The original license number, ~~date~~ and expiration date, along with the work "Duplicate" shall be affixed.

RULE XI FEES

Embalmer License Renewal.....	\$30.00
Funeral Director License Renewal.....	30.00
Establishment License Renewal.....	150.00
Student Embalmer Application.....	50.00
Student Funeral Director Application.....	50.00
Establishment License Application (Type A, B, <u>C</u> , or <u>D</u>)	50.00
Reciprocal Application (Emb or FD).....	150.00
Examination Fee (Emb or FD).....	100.00
Delinquent Fee (Emb or FD).....	50.00
Delinquent Fee (Establishment) Per Quarter.....	50.00
Original License (Emb or FD)	10.00
Original License (Establishment) Type A or B.....	35.00
Original License (Crematory) <u>Type C</u>	32.00
Original License (Transport Service) <u>Type D</u>	35.00
Duplicate License (Emb or FD).....	20.00
Duplicate License (Establishment) Type A or B.....	20.00
Duplicate License (Crematory) <u>Type C</u>	20.00
Duplicate License (Transport Service) <u>Type D</u>	20.00
Crematory License Renewal.....	50.00
Transport Service Application <u>Renewal</u>	50.00
Delinquent Fee (Crematory) Per quarter Year.....	50.00
Delinquent Fee (Transport Service) Per Quarter Year.....	50.00
Continuing Education Application Fee.....	100.00

RULE XII DISCLOSURE

1. All funeral merchandise shall have a visible price card. The price card shall clearly state what merchandise and/or services are included in the quoted price.

2. Every funeral firm and/or funeral director in this state shall give, or cause to give, 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 known:

(a) The price of the service that the person or persons have selected and what is included therein;

(b) The price of each of the supplemental items of service and/or merchandise requested;

(c) The amount involved for each of the items for which the firm will advance monies as an accommodation to the family; and

(d) The method of payment.

3. No funeral firm shall bill or cause to be billed any item that is referred to as a "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.

RULE XIII AGED LICENSES

1. The Board shall waive the renewal fee for any funeral director and/or embalmer license for any licensee who has retired and whose license has been in force and effect for fifty (50) or more years on the fiftieth (50th) anniversary of that license and a Lifetime License shall be issued by the Board to that licensee

RULE XIV FUNERAL PRACTICES

1. Authorization shall be obtained from the arranger(s) who will be responsible for the post death arrangements before removal of any body from the place of death, provided, however, that the avoidance of a public nuisance requires. Such removal without authorization shall be made only pending required authorization from the arranger(s) when it can be obtained. If the funeral firm, to whose establishment the body was removed, is not the one subsequently selected to provide the immediate post death activities, such firm shall release the body to the firm or individual selected by the arranger(s); provided however, that if the initial removal was at the request of a public official or the arranger(s) who later decided to employ another firm, costs incurred in the removal, shelter and temporary care of the body shall be paid by such public officials or the arranger(s). However, such payment shall not be a prerequisite to release of the body.

2. When a funeral establishment has proper custody of a body, its personnel shall not proceed with any of the actual 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; and further provided, that if authorization cannot be obtained or denied, from the arranger(s) 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.

3. 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 arranger(s), both as

to service and merchandise, and a full disclosure of all its available services and merchandise shall be made to arranger(s) prior to selection of the casket and services.

4. 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.

~~5. The following methods of price quotation for professional funeral services are permissible under these rules:~~

- ~~_____ (a) Single Unit~~
- ~~_____ (b) Tri Unit~~
- ~~_____ (c) Multi Unit~~

~~Provided, however, that when using any price quotation method, as above described, full disclosure shall be made of the cash advances or cash accommodations charged by others providing services and/or merchandise.~~

5. Any statements of legal requirements shall be complete and factual, as shall 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.

6. The personnel shall explain, when such explanation is desired, the components of the price for alternatives to a funeral such as the following:

- (a) Memorial Service
- (b) Graveside Service
- (c) A Direct disposition
- (d) Body donation without any rites of ceremonies, prior to the delivery of the

body, and prices of services if there is to be such after the residue has been removed following use thereof.

7. 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 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.

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

9. When death occurs in a place other than where the funeral or other services or final disposition are to take place, and the service of two funeral firms are necessary, the funeral firm engaged at the place of death shall charge only for the professional services, facilities and merchandise provided, and a representative thereof shall so notify the funeral firm to which the body will be forwarded. 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 forwarding and receiving funeral firms only when there is a duplication of professional services, facilities or merchandise pursuant to the request of the arranger(s).

10. 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.

11. In an advertisement, whenever references are made to a service available, such as “a funeral”, “complete funeral”, or “direct disposition”, factual information also shall be given as to professional services, facilities, equipment, merchandise and miscellaneous items including in said terminology and regularly obtainable from the firm(s) named in the advertisement.

12. No funeral service firm shall employ any form of “bait advertising” as described in this rule.

13. Any advertisement to be used in the service shall be a part of the regular merchandise displayed by or for the funeral service firm; and

(a) 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

(b) The desirability of such offer shall not be disparaged or otherwise discouraged.

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

RULE XV COMPLAINTS

1. Complaints concerning violations of these Rules and Regulations may be made by the Board itself, through its Inspector, Investigator, Secretary, or other official, or by a member of the public.

2. All complaints shall be filed with the Secretary of the Board. ~~on forms provided by the Board.~~

3. A copy of that complaint will be sent to the licensee or party against whom the complaint has been lodged.

4. The licensee or other party is to be given fifteen (15) days to respond, in writing, ~~on forms provided by the Board~~ to the allegations of the complainant. Failure to respond to the complaint is an automatic violation.

5. All complaints and responses shall be typed, signed and notarized.

6. The Secretary will review the complaint and responses to determine if further investigation is warranted. The Secretary may direct the Board Inspector to obtain statements or other information.

7. The complaint, response and other information, if any, will be forwarded to the Board Legal Counsel, the Arkansas Attorney General and Board members for review.

8. The Board will review the relevant documentation to determine whether official action will be taken.

9. If the Board finds there is reasonable ground for belief the licensee is guilty of violation of Chapter 29, Arkansas Code, or the Rules and Regulations, then the Board will cause the Secretary to issue Order and Notice of Hearing, which will be served on the licensee or other party by Certified Mail. This notice will contain all the information required by the Administrative Procedures Act.

10. The Secretary shall give twenty (20) days written notice to the complainant of the time and place of the hearing. Failure to appear at the Hearing is an automatic violation.

11. The Hearing will be conducted by the President of the Board, in accordance with the Administrative Procedures Act. At all hearings, the Board will be provided the legal counsel or the Arkansas Attorney General's Office.

RULE XVI PARLIAMENTARY PROCEDURES

1. Roberts Rules of Order is adopted as the official Parliamentary Manual, and the rules contained shall govern the Arkansas State Board of Embalmers and Funerals Directors in all cases to which they are applicable and which do not conflict with the State Statutes and the Rules and Regulations of this Board.