

02-331
Board of Funeral Service
Rules
August / September, 2023

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02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 1: DEFINITIONS**

SUMMARY: This Chapter sets forth definitions of terms used in the rules of the State Board of Funeral Service.

1. Definitions

1. Alternative container. “Alternative container” means an unfinished wood box or other non-metal receptacle without ornamentation or a fixed interior lining, often made of fiberboard, pressed wood or composition materials, which is designed for the encasement of human remains.

2. Authorized person. “Authorized person,” as defined in 22 MRSA §2846 and referenced in 22 MRSA §2843, means a member of the immediate family of the deceased, the domestic partner of the deceased, a person authorized in writing by a member of the immediate family of the deceased if no member of the immediate family of the deceased wishes to assume the responsibility or by the domestic partner of the deceased if the domestic partner does not wish to assume the responsibility or, in the absence of immediate family or a known domestic partner, a person authorized in writing by the deceased. For purposes of the board’s rules, “domestic partner” has the definition set forth in 22 MRSA §2843-A(1)(D)(1-A).

3-A. Branch. “Branch” means a chapel, sales office or other facility utilized by a funeral establishment for any aspect of the practice of funeral service whether or not the embalming or preparation of human remains takes place on the premises.

4. Casket. “Casket” means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, wicker, metal, fiberglass, plastic, or like material, and ornamented and lined with fabric.

4-A. Change of ownership. “Change of ownership” means the sale or transfer of the entire ownership of a funeral home.

4-B. Credit for service. “Credit for service” refers to a mortuary trust agreement in which the mortuary trust proceeds are applied to the cost of funeral goods and services selected, but are not guaranteed by the funeral home to cover those costs in full.

[NOTE: For a more complete explanation of a credit for service mortuary trust agreement, see Chapter 16, Section 2(1) of the board’s rules.]

5. Embalming. “Embalming” means the injection, both arterially and into the body cavities, of an amount of approved embalming fluid at least the equivalent of 10% of the body

weight. An approved embalming fluid shall have disinfecting capacities at least the equivalent of 5% of formaldehyde gas when diluted in accordance with the manufacturer's specifications.

6. Funeral attendant. "Funeral attendant" means a person who is licensed to perform the duties described in Chapter 10, §4 of the board's rules under the supervision of a practitioner of funeral service.

7. Funeral director. "Funeral director" means a person engaged in the practice of funeral directing as presently known, whether under the title of "funeral director," "mortician," "undertaker" or otherwise.

7-A. Guaranteed service. "Guaranteed service" refers to a mortuary trust agreement in which the funeral home guarantees to provide the funeral goods and services selected for a fixed price set forth in the agreement, with the possible exception of cash advance items.

[NOTE: For a more complete explanation of a guaranteed service mortuary trust agreement, see Chapter 16, Section 2(2) of the board's rules.]

8. Human remains. "Human remains" means a deceased person or any part thereof.

9. Licensee in charge. "Licensee in charge" means the practitioner of funeral service who is in charge of a funeral establishment.

9-A. Maine Apprenticeship Program. "Maine Apprenticeship Program" means the Maine Apprenticeship Program administered by the Department of Labor, Bureau of Employment Services.

10. National Board Examination. "National Board Examination" means the examination administered and graded by the International Conference of Funeral Service Examining Boards, Inc. or a successor or other organization approved by the board.

10-A. Payee. "Payee" means the funeral home that serves as trustee of a credit for service or guaranteed price mortuary trust created by a mortuary trust agreement. The funeral home may be an individual, firm, association, partnership or corporation.

10-B. Payor. "Payor" means the person who funds a credit for service or guaranteed service mortuary trust, or the duly appointed legal representative of such person.

11. Practical examination. "Practical examination" means actual embalming of human remains by an applicant in the presence of a member of the board who is a practitioner of funeral service.

12. Practitioner of funeral service. "Practitioner of funeral service" means any person engaged in the practice of funeral service as defined in 32 MRSA §1400(5), including but not limited to embalmers and funeral directors, whether self-employed or employed by others.

12-A. Practitioner trainee. "Practitioner trainee," as defined in 32 MRSA §1400(6), means a person licensed by the board for the purpose of acquiring supervised practice experience within the Maine Apprenticeship Program.

13-A. Settlor. "Settlor" means the person who creates a mortuary trust funded by an existing life insurance policy as described in Chapter 16, §2(3) of the Board's rules.

14. State Law and Rule Examination. "State Law and Rule Examination" means the written examination on the State laws and rules promulgated by the Board relating to the practice of funeral service in the State of Maine.

STATUTORY AUTHORITY: 32 M.R.S.A. §§1451 and 1501

EFFECTIVE DATE:

December 20, 1979 - under the title "Rules of Maine State Board of Funeral Service,"
amended Sections 8 and 12

READOPTED:

December 28, 1979 - as "Rules of Maine State Board of Funeral Service"

AMENDED:

November 23, 1981

REPEALED AND REPLACED:

April 3, 1990 - as "Definitions." Other subject matter split off into separate chapters.

AMENDED:

March 1, 1997

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 18, 1997

REPEALED AND REPLACED:

October 29, 2001

NON-SUBSTANTIVE CORRECTIONS:

March 29, 2004 - character spacing only

AMENDED:

December 26, 2009 – filing 2009-686

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 2-A: ADVISORY RULINGS**

SUMMARY: This chapter provides for the discretionary issuance of advisory rulings by the board.

1. Request and Consideration

Upon written request of any interested person, the board may issue an advisory ruling pursuant to 5 M.R.S.A. §9001 with respect to the applicability of any statute or rule it administers. Requests for advisory rulings must set forth in detail all facts pertinent to the question. The board may decline to issue an advisory ruling if the question is hypothetical, if there is insufficient information upon which to base a ruling, or for any other reason the board deems proper.

2. Response

The board shall acknowledge receipt of a request for an advisory ruling within 15 days after receipt. The board shall respond to every written request for an advisory ruling within 90 days of its receipt of the request, indicating whether or not a ruling will be issued by the board.

STATUTORY AUTHORITY: 5 M.R.S.A. §§ 8051, 9001(4)

EFFECTIVE DATE:

December 26, 2009 – filing 2009-688

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 3: EDUCATIONAL REQUIREMENTS FOR LICENSURE**

SUMMARY: This chapter sets forth the educational requirements for licensure as a practitioner of funeral service.

Subchapter 1 (Associate or higher degree in funeral service optional)**1. Scope of subchapter 1**

This subchapter applies to:

1. A person who is a registered practitioner trainee as of the effective date of this amendment; and
2. Any other person who files a complete application for licensure as a practitioner of funeral service prior to March 1, 2011.

2. Eligibility for licensure

To be eligible for licensure as a practitioner of funeral service, an applicant for initial licensure shall meet all requirements set forth in 32 MRSA §1501 and shall satisfy the educational requirements of either subsection 1 or subsection 2 below.

1. Receipt of an Associate Degree or higher from a college of mortuary science accredited by the American Board of Funeral Service Education or a successor or other organization approved by the board,

OR

2.
 - A. Successful completion of at least fifty (50) credit hours of study at a college of mortuary science accredited by the American Board of Funeral Service Education or a successor or other organization approved by the board, and
 - B. Successful completion of a sufficient number of college semester credit hours to entitle the applicant to admission as a member in good standing of the second year class of any college or university approved by a recognized accrediting authority.

Subchapter 2 (Associate or higher degree in funeral service required)

3. Scope of subchapter 2

This subchapter applies to a person who files a complete application for licensure as a practitioner of funeral service on or after March 1, 2011 other than a person who is a registered practitioner trainee as of the effective date of this amendment.

1. To be eligible for licensure as a practitioner of funeral service, an applicant shall have an Associate Degree or higher from a program in funeral service accredited by the American Board of Funeral Service Education or a successor or other organization approved by the board.
-

STATUTORY AUTHORITY: 32 M.R.S.A. §§ 1451 and 1501

EFFECTIVE DATE:

April 3, 1990 - as a Chapter entitled "Educational Requirements." Previously the subject matter was Section 3 of Chapter 1.

AMENDED:

March 1, 1997

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 18, 1997

REPEALED AND REPLACED:

October 29, 2001

AMENDED:

December 26, 2009 – 2009-689

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 5: PRACTITIONER TRAINEES**

SUMMARY: This chapter describes the 2000-hour traineeship to be completed by practitioner trainees through the Maine Apprenticeship Program prior to application for licensure as a practitioner of funeral service.

1. Trainee Experience in Another Jurisdiction

Upon receiving from the applicant proof of licensure as a practitioner trainee or apprentice in another jurisdiction, the board may accept the determination made by the Maine Apprenticeship Program with respect to any partial or complete recognition of the hours completed in the other jurisdiction.

2. Application

Application for licensure as a practitioner trainee must be made on a form provided by the board. The applicant shall submit the fee required by Chapter 10, Section 5(18) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees,” with the application. The board shall approve the applications of qualified applicants and shall forward the names of the qualified applicants to the Maine Apprenticeship Program.

4. Apprenticeship Agreement

Before the practitioner trainee enrolls with the Maine Apprenticeship Program, the trainee and the licensed practitioner who will be supervising the trainee shall agree to follow the requirements of the division and the requirements of the board. The purpose of this agreement is to ensure that proper training is accomplished and that proper documentation of the training is created.

5. Termination or Change of Employment

1. Notice From Practitioner Trainee; New Agreement Required

A practitioner trainee shall notify the board in writing of any termination or change of employment within ten (10) days of the termination or change. Notice of a change of employment must include the name and address of the new funeral home and the name of the new supervising practitioner. The new supervising practitioner must enter into the agreement required by Section 4 of this chapter prior to the accrual of any training hours recognizable under Section 6 of this chapter.

2. Notice From Supervising Licensed Practitioner

A supervising licensed practitioner shall notify the board in writing of any termination or change of employment of a practitioner trainee under the practitioner's supervision within ten (10) days of the termination or change.

6. Required Number of Hours

Each practitioner trainee shall successfully complete an apprenticeship of 2,000 on-the-job training hours at a licensed establishment. board will not recognize training hours that were earned prior to or outside of the trainee's enrollment with the Maine Apprenticeship Program, except as described in Sections 1 and 10 of this chapter; nor will the board recognize training hours earned in any branch of military service.

6-A. Duration of Traineeship

1. For Persons Registered Prior to Effective Date of New Amendments

For persons initially registered as practitioner trainees between January 1, 2002 and the day prior to the effective date of these amendments, the traineeship may not be less than one (1) year nor greater than eight (8) years in duration.

2. For Persons Registered On or After Effective Date of New Amendments

For persons initially registered as practitioner trainees on or after the effective date of these amendments, the traineeship may not be less than one (1) year nor greater than four (4) years in duration, except that the board may extend the duration of the traineeship in the event of unforeseeable circumstances of genuine hardship.

7. Certificate of Completion

The practitioner trainee shall request a certificate of completion from the Maine Apprenticeship Program upon successful completion of the traineeship. The Maine Apprenticeship Program shall send documentation of completion to the board.

8. Application for Licensure

Application for licensure as a practitioner of funeral service must be made within five (5) years following the completion of apprenticeship training; after five (5) years, the traineeship will not be recognized.

9. No Subsequent Work as Trainee

A person may not work as a practitioner trainee following successful completion of a traineeship.

10. Alternate Recognition Process for Traineeship or Apprenticeship Completed in Another Jurisdiction

In lieu of a traineeship completed under the auspices of the Maine Apprenticeship Program, and in the absence of a determination from the Maine Apprenticeship Program pursuant to Section 1 of this chapter, the Board may recognize a traineeship completed in another jurisdiction upon demonstration by the applicant, and submission of such documents as the board may require, that the completed traineeship was substantially similar in nature to the traineeship described in this chapter. The hours, duration and recency provisions of this chapter apply to any such traineeship. The applicant is responsible for corroborating the number of hours served. Recognition by the board substitutes for the certificate of completion described in Section 7 of this chapter and required for licensure by Chapter 6-A, Section 2(1)(B) of the board's rules.

STATUTORY AUTHORITY: 32 M.R.S.A. §§ 1451 and 1501

EFFECTIVE DATE:

April 3, 1990 - as a Chapter entitled "Practitioner Trainee." Previously the subject matter was Section 5 of Chapter 1.

AMENDED:

March 1, 1997

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 18, 1997

REPEALED AND REPLACED:

October 29, 2001 - as "Practitioner Trainees"

AMENDED:

December 26, 2009 – filing 2009-691

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 6-A: PATHWAYS TO LICENSURE AS A PRACTITIONER OF FUNERAL SERVICE**

SUMMARY: This chapter sets forth the pathways to licensure as a practitioner of funeral service.

1. Pathways to Licensure

Applicants may qualify for licensure as a practitioner of funeral service in either of two ways:

1. Pathway 1: Initial Licensure

- A. Completing the education requirement contained in Chapter 3 of the board's rules;
- B. Completing a practice traineeship or its equivalent as described in Chapter 5 of the board's rules; and
- C. Achieving passing scores on the National Board Examination, State Law and Rule Examination, and Practical Examination as described in Section 2 of this chapter.

OR

2. Pathway 2: Licensure in Another State

- A. Licensure in another state, as described in Section 3(1) of this chapter; and
- B. Achieving a passing score on the State Law and Rule Examination, as described in Section 3(2) of this chapter.

2. Pathway 1: Initial Licensure

1. Application and Fees; Passing Score on National Board Examination

Application for examination and licensure as a practitioner of funeral service must be made on forms provided by the board. The applicant shall submit with the application:

- A. Academic transcripts showing satisfaction of the educational requirements contained in Chapter 3 of the board's rules;

- B. A certificate of completion from the Maine Apprenticeship Program, as described in Chapter 5, Section 7 of the board's rules, including acceptance or recognition of trainee hours completed in another jurisdiction pursuant to Chapter 5, Sections 1 and 10 of the board's rules;
- C. Documentation that the applicant has attained a minimum passing score of 75% on each of the major sections of the National Board Examination, or its successor or equivalent; and
- D. The license and examination fees required by Chapter 10, Section 5(18) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees."

All applications must be complete. Incomplete applications may be discarded by the board after one year from the date of the initial submission.

2. State Law and Rule Examination; Practical Examination

A person whose application has been approved by the board shall appear before a member of the board at a time and place designated by the board for the purpose of taking the Practical Examination. If an applicant has a handicapping condition which would interfere with the ability to take either examination, the applicant may submit verification of the handicapping condition to the board and request an alternative examination.

An applicant shall achieve passing scores on the State Law and Rule Examination and the Practical Examination within one year from the date that the applicant's application was approved by the board. An applicant who fails an examination may re-take the examination following re-payment of the examination fee. The original license fee need not be repaid.

The minimum passing score on the State Law and Rule Examination and the Practical Examination is 75% on each. The board shall notify an applicant in writing of the applicant's scores within thirty (30) days of an examination. A license may be issued to an approved applicant who passes both examinations. A passing score on the State Law and Rule Examination or the Practical Examination will be recognized by the board for the two-year period following the date of the examination.

An otherwise-eligible applicant less than 18 years of age who has satisfied the educational requirements contained in Chapter 3 may take the required examinations. If the applicant passes the examinations, the license shall issue once the applicant attains the age of 18.

3. Pathway 2: Licensure in Another State

1. Application and Fees; License Verification

Application for licensure as a practitioner of funeral service must be made on forms provided by the board. The applicant shall submit with the application:

- A. Proof that the applicant –
 - (1) Has been in continuous active practice as a licensed practitioner of funeral service of another state for the 3-year period immediately preceding submission of the application to the board; or
 - (2) Holds an active license to practice funeral service from another state that was obtained on the basis of license requirements that are substantially similar to the requirements of Maine law and these rules of the board.
- B. Verification of licensure status and disciplinary history from every jurisdiction where the applicant is or previously has been licensed;
- C. Two letters of recommendation from licensed practitioners of funeral service in the applicant's home jurisdiction; and
- D. The license and examination fees required by Chapter 10, Section 5(18) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees."

All applications must be complete. Incomplete applications may be discarded by the board after one year from the date of the initial submission.

2. State Law and Rule Examination

An applicant shall achieve a passing score on the State Law and Rule Examination within one year from the date that the applicant's application was approved by the board. An applicant who fails the examination may re-take the examination following re-payment of the examination fee. The original license fee need not be repaid.

The minimum passing score on the State Law and Rule Examination is 75%. The board shall notify an applicant in writing of the applicant's score within thirty (30) days of an examination. A license may be issued to an approved applicant who passes the examination. A passing score on the State Law and Rule Examination will be recognized by the board for the two-year period following the date of the examination.

STATUTORY AUTHORITY: 32 M.R.S.A. §§ 1451 and 1501

EFFECTIVE DATE:

December 26, 2009 – filing 2009-693

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 7: FUNERAL ESTABLISHMENTS**

SUMMARY: This chapter describes the licensure obligations of funeral establishments.

1. Licensure

Every funeral establishment and every branch thereof must be licensed with the board by a licensee in charge. A funeral establishment or branch thereof may not operate unless the funeral establishment or branch is licensed with the board. The licensee in charge is responsible for the establishment's or branch's compliance with the funeral laws and rules of the board. A funeral establishment or branch thereof may not operate without a licensee in charge.

2. Application for Licensure

Application for licensure of a funeral establishment or branch must be made by the licensee in charge on a form provided by the board. The applicant shall submit the fee required by Chapter 10, Section 5(18) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees," with the application.

3. Issuance of License

The board will issue a license to each licensed funeral establishment and branch. The license must be publicly displayed on the premises at all times and must be renewed annually.

4. Inspection

An initial inspection of the premises and records may be scheduled after initial issuance of the license. However, a licensee is responsible at all times for complying with the funeral laws and the rules of the board. A funeral inspector or authorized employee of the Office of Licensing and Registration may enter any funeral establishment during reasonable business hours without prior notice for the purpose of inspecting the premises, the records, including mortuary trust records, and the work of licensees and practitioner trainees conducted therein.

5. Unavailability of Licensee in Charge

A funeral establishment shall immediately notify the board in writing upon the death, incapacity, resignation or unavailability for any reason of a licensee in charge. The establishment or branch may not operate until the establishment has notified the board in writing that a replacement licensee in charge has been engaged. The establishment shall

furnish the name and address of the replacement licensee in charge and such additional information as the board may require.

6. Procedures Upon Change of Ownership

A funeral establishment shall take the following steps within thirty (30) days of a change of ownership as defined in Chapter 1, Section 4-A of the board's rules:

1. Apply for licensure of the establishment and branches by a licensee in charge as described in Section 2 of this chapter; and
 2. Send proof to the board that the funeral establishment has given the notices required by Chapter 16, Section 9 of the board's rules.
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STATUTORY AUTHORITY: 32 M.R.S.A. §§1451 and 1501

EFFECTIVE DATE:

April 3, 1990 - as a Chapter entitled "Funeral Establishments." Previously the subject matter was Section 8 of Chapter 1.

AMENDED:

December 15, 1993
March 1, 1997

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 18, 1997

REPEALED AND REPLACED:

October 29, 2001

NON-SUBSTANTIVE CORRECTIONS:

March 29, 2004

AMENDED:

December 26, 2009 – filing 2009-694

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 8: SAFETY AND HEALTH STANDARDS**

SUMMARY: This chapter sets forth the equipment and health-related requirements applicable to licensed funeral establishments.

1. Preparation Room

Every funeral establishment maintained or used for the purpose of embalming must contain at least one room of adequate size to be used exclusively as a preparation or embalming room. No other room may be used for embalming. A preparation room may not be accessible to the public when human remains are being prepared. Restrictions on entry into a preparation room must be posted on all doors to the room. Only the following persons may be admitted to a preparation room:

1. Licensed practitioners of funeral service;
2. Licensed funeral attendants;
3. Practitioner trainees;
4. Unlicensed students who are currently enrolled in a college of mortuary science accredited by the American Board of Funeral Service Education;
5. Medical examiners, consulting physicians or other experts, and their support personnel;
6. Law enforcement officers;
7. Physician(s) of the deceased or the immediate family of the deceased;
8. Licensed cosmetologists; and
9. Authorized persons as defined in Chapter 1, Section 2 of the board's rules.

2. Biomedical Wastes

Every funeral establishment shall comply with Chapter 900 of the rules of the Department of Environmental Protection, 06-096, entitled "Biomedical Waste Management Rules," dated May 4, 1996, to the extent that chapter is applicable to the funeral establishment.

[NOTE: Chapter 900 is enforced by the Department of Environmental Protection.]

3. Cleanliness and Sanitation

The preparation or embalming room must be maintained in a clean and sanitary condition at all times.

4. Facilities and Equipment

The facilities and equipment required in preparation or embalming rooms must include, but not be limited to, the following:

1. Hot and cold running water;
2. Flush or slop sink connected to a public sewerage system or a septic tank;
3. Morgue table which is covered with an impervious material;
4. Covered waste container;
5. First aid emergency kit;
6. Heavy latex (or hypo-allergenic) gloves;
7. Necessary instruments and apparatus for the embalming process;
8. A method of sterilization of instruments;
9. Walls constructed of, or covered with, impervious material which extend from floor to ceiling;
10. Floor of cement, tile, or composition and which extends from wall to wall;
11. Necessary antiseptics and disinfectants; and
12. Clean gowns or aprons.

5. Gown or Smock; Gloves

Each person engaged in the preparation of human remains shall be attired in appropriate protective equipment and a clean and sanitary smock or gown. The gown or smock must cover the person from the neck to below the knees. The gown or smock must be properly laundered or disposed of. Each person shall wear heavy latex (or hypo-allergenic) gloves at all times during the embalming process.

6. Cleaning and Disinfecting

Sheets, linens, materials, supplies and all instruments and appliances which have come in contact with human remains must be thoroughly cleansed and disinfected at the conclusion of each preparation.

7. Ventilation

The preparation room must be ventilated so that no deleterious odors stay in the room, and no deleterious odors may enter any other part of the premises.

8. Protection of Potable Water

Construction of nonpotable water systems or systems carrying any other nonpotable substance must be such as to prevent backflow or backsiphonage into a potable water system.

STATUTORY AUTHORITY: 32 M.R.S.A. §§1451 and 1501

EFFECTIVE DATE:

April 3, 1990 - as a Chapter entitled "Safety and Health Standards." Previously the subject matter was Section 9 of Chapter 1.

AMENDED:

March 1, 1997

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 18, 1997

REPEALED AND REPLACED:

October 29, 2001

NON-SUBSTANTIVE CORRECTIONS:

March 29, 2004

AMENDED:

December 26, 2009 – filing 2009-695

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 10: GENERAL RULES / SCOPE OF PRACTICE**

SUMMARY: This chapter contains general rules regarding: (1) hairdressing and cosmetology, (2) the scope of practice of funeral directors and funeral attendants, (3) licensure of funeral attendants, (4) compliance with the FTC Funeral Rule, and (5) mandatory notices and disclosures.

1. Hairdressing and Cosmetology

Hairdressing and cosmetology of the deceased may only be performed by a practitioner of funeral service, a licensed cosmetologist or an authorized person.

2. Embalming

Embalming may only be performed by a practitioner of funeral service or a practitioner trainee who is under the supervision of a practitioner of funeral service.

3. Funeral Directors

A funeral director may engage in all activities of a practitioner of funeral service other than embalming. These may include one or more of the following:

1. Directing or supervising funerals;
2. Preparing, other than by embalming, or disposing of human remains by any legal means; and
3. Operating a funeral establishment which is advertised or used for funeral services.

4. Funeral Attendants

1. Funeral attendants may:

- A. Remove human remains from the place of death;
- B. Dress human remains;
- C. Place human remains in a casket;
- D. Assist a practitioner of funeral service at a funeral service, graveside service or memorial service; and
- E. Supervise a visitation.

2. Funeral attendants may not:
 - A. Conduct a funeral service, graveside service or memorial service;
 - B. Embalm human remains;
 - C. Make, negotiate or discuss funeral arrangements with members of the public; or
 - D. Make, negotiate or discuss mortuary trust agreements with members of the public.

3. Supervision, Training and Licensure of Funeral Attendants

A funeral attendant may only work under the personal supervision and legal responsibility of a licensed practitioner of funeral service or licensed funeral director who is actively associated with a funeral establishment. "Personal supervision" means that the funeral attendant reports to the funeral practitioner. A practitioner of funeral service who employs a funeral attendant shall apply for licensure of the attendant on a form supplied by the board and shall pay the fee required by Chapter 10, Section 5(18) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees." Each funeral attendant shall receive annual training of at least one hour in duration in the OSHA rules governing bloodborne pathogens and highly hazardous chemicals found in 29 CFR §§ 1910.1030 and 1910.119, respectively.

4. Termination of Employment, Change of Supervisor or Change of Employment

- A. A funeral attendant shall notify the board in writing of any termination of employment, change of supervisor or change of employment within ten (10) days of the termination or change. Notice of a change of supervisor or change of employment must include the name of the new supervisor and the name and address of the new funeral home, if applicable.
- B. A licensed practitioner of funeral service or funeral director shall notify the board in writing of any termination of employment, change of supervisor or change of employment of a funeral attendant under the supervision of the practitioner or director within ten (10) days of the termination or change. Notice of a change of supervisor must include the name of the new supervisor.

7. Federal Trade Commission Funeral Rule

The board incorporates by reference into this chapter the Funeral Industry Practices Revised Rule issued by the Federal Trade Commission effective July 19, 1994, and codified at 16 CFR Part 453 (1/1/08 ed.). Copies are available at cost from the Board or from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954 or at no charge on the world wide web at www.gpoaccess.gov/cfr/index.html.

8. Disclosure of Ownership Interest

A funeral establishment shall disclose the name and address of each person holding an ownership interest in the funeral establishment on each contract or agreement for provision of funeral services or supplies and on the following documents:

- Statement of Funeral Goods and Services Selected
- General Price List (“GPL”)
- Casket Price List (“CPL”)
- Outer Burial Container (“vault”) Price List
- Mortuary Trust Agreement

10. Cost and Availability of Rental Caskets

A funeral establishment shall disclose to customers whether or not rental caskets are offered. The cost and availability of rental caskets must be disclosed on the General and Casket Price Lists, along with a description of said caskets. If caskets available for rental purposes have been used previously, this also must be disclosed.

STATUTORY AUTHORITY: 32 MRSA §§1451 and 1501

EFFECTIVE DATE:

December 26, 2009 – filing 2009-697

Note: former Chapters 10 and 11 -

Chapter 10, "Fees"	Chapter 11, "General Rules"
EFFECTIVE DATE: April 3, 1990 - as a Chapter entitled "Fees." Previously the subject matter was Section 12 of Chapter 1.	EFFECTIVE DATE: April 3, 1990 - as a Chapter entitled "General Rules." Previously the subject matter was part of Chapter 1.
AMENDED: November 26, 1991 December 15, 1993 March 1, 1997	AMENDED: March 1, 1997
EFFECTIVE DATE (ELECTRONIC CONVERSION): March 18, 1997	EFFECTIVE DATE (ELECTRONIC CONVERSION): March 18, 1997
AMENDED: December 21, 1999	REPEALED AND REPLACED: October 29, 2001 - as "Continuing Education Requirements" -- see Chapter 11 for any later changes.
REPEALED AND REPLACED: October 29, 2001 - as "General Rules / Scope of Practice." Fee provisions for this board and certain others became part of 02-041, Chapter 10.	

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 11: ANNUAL RENEWAL; CONTINUING EDUCATION ;INACTIVE STATUS**

SUMMARY: This chapter describes the continuing education requirement and sets forth procedures regarding inactive status licensure.

1. Annual Renewal; Continuing Education

Licenses issued by the board are renewable annually upon application to the board and payment of the license fee required by Chapter 10 of the rules of the Office of Professional and Occupational Regulation, plus any applicable late fee.

1. At the time of an odd-year renewal, practitioners of funeral service shall certify to compliance with the continuing education requirement set forth in 32 M.R.S. §1506 and this chapter.
2. At the time of each renewal, funeral attendants shall certify as to completion of the annual training in bloodborne pathogens and highly hazardous chemicals required by Chapter 10, Section 4(3) of the board's rules.

2. Approved Continuing Education Programs and Activities

1. Practitioners of funeral service may satisfy the requirement of Section 1(1) by completing:
 - (a) programs approved for continuing education credit by the Academy of Professional Funeral Service Practice, its successor organization or a comparable organization or;
 - (b) programs hosted or sponsored by the Maine Funeral Directors Association or the National Funeral Directors Association, their successor organizations or comparable organizations or;
 - (c) programs hosted or sponsored and approved for continuing education credit by any state funeral board or state licensing authority; or
 - (d) any other program that relates to the following subject areas:
 - (i) professional competency, professional conduct, business ethics, or legal aspects relating to funeral practice; or
 - (ii) techniques including scientific and clinical advances relating to embalming and funeral arranging.

3. **Hardship Deferment**

A licensee may request a deferment of continuing education from the board due to health reasons, military service or other unforeseeable circumstances of genuine hardship. Any licensee who receives a deferment shall make up the deferred continuing education according to a schedule determined by the board in consultation with the licensee.

Deferred continuing education, once completed by a licensee, may not also be used to satisfy the continuing education requirement for a license year other than the year for which the deferment was granted.

4. **Documentation and Audit**

It is the responsibility of each licensee to maintain records, certificates, or other evidence of compliance with the continuing education requirement. Reporting, verification and audit of continuing education is governed by Chapter 13 of the rules of the Office of the Professional and Occupational Regulation.

5. **Inactive Status Licensure**

1. **Application and Renewal**

A practitioner of funeral service may apply for an inactive status license. A licensee who applies for inactive status during the 3 months prior to expiration of the license shall demonstrate compliance with the continuing education requirement license year during which application is made. The board may refuse to issue an inactive status license to a licensee who:

- C. Is ineligible for renewal of an active license; or
- D. Applies for an inactive status license during the 3 months prior to expiration and fails to demonstrate compliance with the continuing education requirement for the license year during which application is made.

2. **Prohibition Against Practice**

A licensee may not engage in the practice of funeral service while in inactive status.

3. **Continuing Education**

A licensee need not comply with the continuing education requirement contained in Chapter 11 of the board's rules while in inactive status.

4. **Renewal of Inactive Status License**

A licensee may renew an inactive status license by:

- E. Submitting a renewal application;
- F. Paying the license fee required by Chapter 10 of the rules of the Office of Professional and Occupational Regulation; and
- G. Providing such other information as the board may require.

5. Reinstatement to Active Status

The holder of an inactive status license may return to active status upon application to the board, payment of the required license or reinstatement fee, and certification of completion of six (6) contact hours of continuing education during the one-year period prior to application. The six (6) contact hours may be completed through either in-person or through online or distance learning programs.

STATUTORY AUTHORITY:

32 M.R.S.A. §§1451, 1501 and 1506

EFFECTIVE DATE:

December 26, 2009 – filing 2009-698

January 22, 2023 – filing 2023-010

Note: former Chapters 11 and 12

Chapter 11, "General Rules"	Chapter 12, "Continuing Education Requirements"
Pre-APA EFFECTIVE DATE: May 1, 1970 - all board rule language part of Chapter 1, "Rules of Maine State Board of Funeral Service" AMENDED: January 26, 1971 June 18, 1974 March 17, 1977 August 18, 1977 December 4, 1979 APA READOPTED: December 28, 1979 EFFECTIVE DATE: April 3, 1990 - as a Chapter entitled "General Rules." AMENDED: March 1, 1997 EFFECTIVE DATE (ELECTRONIC CONVERSION): March 18, 1997 REPEALED AND REPLACED: October 29, 2001 - as "Continuing Education Requirements." NON-SUBSTANTIVE CORRECTIONS: March 29, 2004 AMENDED: January 22, 2023	EFFECTIVE DATE: December 28, 1979 - all board rule language part of Chapter 1, "Rules of Maine State Board of Funeral Service" AMENDED: September 7, 1992 - as "Continuing Education Requirement" March 1, 1997 EFFECTIVE DATE (ELECTRONIC CONVERSION): March 18, 1997 AMENDED: December 21, 1999 REPEALED AND REPLACED: October 29, 2001 - as Transportation of Human Remains." Former subject matter moved to Chapter 11.

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 12: TRANSPORTATION OF HUMAN REMAINS**

SUMMARY: This chapter contains rules regarding the transportation of dead human bodies and human remains.

1. Generally

Licensees may transport dead human bodies or human remains only in vehicles owned by or leased to the funeral establishment or a practitioner of funeral service.

2. Definitions

For this chapter, the following terms are defined as:

- A. **Multi-purpose Funeral Vehicle:** “Multipurpose Funeral Vehicle” means a vehicle, other than a hearse, used for transporting dead human bodies or human remains.
- B. **Hearse:** “Hearse” means a vehicle specially constructed and used for conveying dead human bodies or human remains.
- C. **Hinge Point:** “Hinge Point” means the point on a seat assembly where the vehicle seat back attaches to and pivots above the horizontal seat base.
- D. **Platform:** “Platform” means a removable or permanent rigid surface including but not limited to a casket floor, a loading deck, or wood or other material that is used to facilitate the loading and unloading of transportation equipment.
- E. **Raised Platform:** “Raised Platform” means a platform at a height above the hinge point.
- F. **Transportation Equipment:** “Transportation Equipment” means a stretcher, cot, rack, cot mate, tray, platform, casket, alternative container, or like mechanisms that are made of metal or other rigid materials and are used for transporting dead human bodies or human remains.

3. Dignity in the transportation of dead human bodies or human remains

Licensees transporting dead human bodies or human remains must promote respect for and preserve the dignity of dead human bodies or human remains by:

- A. Enclosing and concealing dead human bodies or human remains from public view.
- B. Providing ample enclosed area to accommodate transportation equipment; and
- C. Loading, transporting, and unloading dead human bodies or human remains without excessive tilting or movement of the transportation equipment.

4. Safety of drivers and passengers in multipurpose funeral vehicles

Multipurpose funeral vehicles used to transport dead human bodies or human remains must meet the following requirements:

- A. If a platform is used, the following apply:
 - 1. The platform must be securely attached to the floor of the vehicle when the vehicle is in transit; and
 - 2. The platform must be on a plane level to the vehicle floor and below the hinge point to the driver and front passenger seats.
- B. If a raised platform is used, the following apply:
 - 1. The raised platform must be securely attached to vehicle when the vehicle is in transit;
 - 2. The raised platform must be located behind the passenger seat only; and
 - 3. The passenger seat must remain empty.
- C. Multi-purpose funeral vehicles owned or leased by funeral establishments or funeral practitioners must comply with Sections 4(A) and 4(B) as soon as practicable but no later than five years from the effective date of this chapter.
- D. To reduce the risk of driver or passenger injury, a licensee shall make a good faith effort to secure any transportation equipment and cargo stored in the back of the vehicle with tiedowns such as padded lines, rope, strapping, synthetic webbing or cordage, or other attachment or fastening devices. Funeral establishments shall be responsible for providing tiedowns for this purpose.

5. Transportation of Human Remains by Common Carrier

Dead human bodies that are embalmed must be enclosed in a casket or alternative container designed for this purpose when transported by common carrier.

Dead human bodies that are not embalmed or in a decomposition state must be enclosed in a galvanized metal, sealed case (Ziegler or equivalent) or casket designed to prevent leakage of fluids and offensive odors when transported by common carrier.

STATUTORY AUTHORITY: 32 M.R.S.A. §§ 1451 and 1501

EFFECTIVE DATE:

December 26, 2009 – filing 2009-699

REPEAL AND REPLACE:

September 23, 2023 – filing 2023-133 (Final adoption, major substantive)

Note: former Chapters 12 and 14:

Chapter 12, "Continuing Education Requirement"	Chapter 14, "Transportation of Human Remains"
EFFECTIVE DATE: December 28, 1979 - all board rule language part of Chapter 1, "Rules of Maine State Board of Funeral Service"	EFFECTIVE DATE: March 1, 1997
AMENDED: September 7, 1992 - as "Continuing Education Requirement" March 1, 1997	REPEALED AND REPLACED: October 24, 2001 - as "Temporary Storage." Former subject matter moved to Chapter 12.
EFFECTIVE DATE (ELECTRONIC CONVERSION): March 18, 1997	
AMENDED December 21, 1999	
REPEALED AND REPLACED: October 29, 2001 - as "Transportation of Human Remains." Former subject matter moved to Chapter 11.	

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 13: DISINTERMENT**

SUMMARY: This chapter contains rules regarding the disinterment of human remains by practitioners of funeral service.

1. Generally

Except as authorized by the Department of Health and Human Services, disinterment must be made under the direct supervision of a practitioner of funeral service. The licensee is responsible for the proper conduct of the disinterment.

2. Transportation of disinterred human remains

Chapter 12 of the board's rules applies to disinterments.

STATUTORY AUTHORITY: 32 M.R.S.A. §§1451 and 1501

EFFECTIVE DATE:

December 26, 2009 – filing 2009-700

Note: former Chapters 13 and 15

Chapter 13, "Inactive Status"	Chapter 15, "Disinterment"
EFFECTIVE DATE: December 15, 1993 - as "Inactive Status"	EFFECTIVE DATE: March 1, 1997
AMENDED: March 1, 1997	REPEALED AND REPLACED: October 29, 2001 - as Code of Ethics." Former subject matter moved to Chapter 13.
EFFECTIVE DATE (ELECTRONIC CONVERSION): March 18, 1997	
REPEALED AND REPLACED: October 29, 2001 - as "Disinterment"	

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 14: TEMPORARY STORAGE**

SUMMARY: This chapter contains rules regarding the storage of human remains by licensees of funeral service.

1. Less Than Eight Months

Temporary storage of human remains for less than eight months, in tombs or other structures constructed for the temporary storage of human remains, is not regarded as final disposition. Removal of the human remains from these structures is not considered disinterment as governed by Chapter 13 of the board's rules.

2. Eight Months or Longer

The storage of human remains for eight months or longer in a tomb or other structure constructed for the purpose of storage is regarded as final disposition. Removal of the human remains from these structures is considered disinterment as governed by Chapter 13 of the board's rules.

3. Transportation of Human Remains Removed From Temporary Storage

Chapter 12 of the board's rules applies to human remains removed from temporary storage.

4. Unembalmed Human Remains

Unembalmed human remains must be placed in a sealed casket or container for temporary storage until final disposition occurs.

[NOTE: Practitioners of funeral service shall be mindful of the permitting requirements in Chapter 146, Section 6 of the rules of the Department of Health and Human Services, Office of Data, Research and Vital Statistics relating to the temporary storage of human bodies. Chapter 146 is enforced by the Department of Health and Human Services.]

STATUTORY AUTHORITY: 32 M.R.S.A. §§1451 and 1501

EFFECTIVE DATE:

March 1, 1997 - as "Transportation of Human Remains"

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 18, 1997

REPEALED AND REPLACED:

October 29, 2001 - as "Temporary Storage." Former subject matter moved to Chapter 12.

AMENDED:

December 26, 2009 – filing 2009-701

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

331 MAINE STATE BOARD OF FUNERAL SERVICE

Chapter 15: CODE OF ETHICS

SUMMARY: This chapter establishes a code of ethics for licensees of the board.

1. Accurate and Precise Information

Licensees have a duty to provide the public with accurate and precise information regarding funerals, embalming, prices, funeral functions and services.

3. Standard of Total Honesty

Licensees may not make any false or misleading representation, either written or orally. Licensees shall conduct themselves according to a standard of total honesty at all times.

4. Respect All Faiths, Customs and Creeds

Licensees shall respect all faiths, customs and creeds of the deceased and conduct themselves appropriately.

5. Handling and Preparation of Human Remains

Licensees shall treat the handling and preparation of human remains with respect, dignity and courtesy.

6. Respect, Dignity and Courtesy

Licensees shall treat all persons with respect, dignity and courtesy regardless of race, religion, national origin, gender orientation, education, financial status or cause of death.

7. Wishes and Respects of Persons Responsible for the Deceased

Consistent with 22 MRSA §2843-A(5), licensees shall respect and abide by the wishes and requests of persons responsible for the deceased.

STATUTORY AUTHORITY: 32 M.R.S.A. §§1451 and 1501

EFFECTIVE DATE:

December 26, 2009 – filing 2009-702

Note: former Chapters 15 and 17

Chapter 15, "Disinterment"	Chapter 17, "Code of Ethics"
EFFECTIVE DATE: March 1, 1997 - as "Disinterment"	EFFECTIVE DATE: March 1, 1997 - as "Code of Ethics"
REPEALED AND REPLACED: October 29, 2001 - as "Code of Ethics." Former subject matter moved to Chapter 13.	REPEALED: October 29, 2001. Subject matter moved to Chapter 15.

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**331 MAINE STATE BOARD OF FUNERAL SERVICE****Chapter 16: PREARRANGED FUNERALS – MORTUARY TRUST AGREEMENTS**

SUMMARY: This chapter adopts forms of mortuary trust agreements for use in Maine.

1. Creation of Mortuary Trust

A mortuary trust subject to 32 MRSA §1401 is created when:

1. Funds are entrusted by a payor to a funeral home as payee under an agreement that the funds will be used for expenses associated with funeral and burial services to be performed in the future upon the death of a designated beneficiary; or
2. An existing life insurance policy has been assigned to the funeral home as beneficiary, or owner and beneficiary, under an agreement that the policy proceeds will be used for expenses associated with funeral and burial services to be performed in the future upon the death of the person insured.

The funeral home has the obligations of a trustee with respect to the funds or the insurance policy and policy proceeds.

2. Exclusive Forms For Maine Mortuary Trust Agreements

A practitioner of funeral service, funeral director or funeral home may not enter into a mortuary trust agreement for performance in this State that does not substantially conform to one of the following forms that is attached to and made a part of this chapter:

1. Maine Mortuary Trust Agreement – Credit For Service

What it is – A credit for service mortuary trust agreement does not obligate a funeral home to provide funeral goods and services for a predetermined price. Rather, the account balance of the trust upon the death of the beneficiary is applied to the cost at time of death of the funeral goods and services selected. The cost at time of death may be higher or lower than the cost of such funeral goods and services at the time the agreement is executed. If the account balance of the trust upon the death of the beneficiary exceeds the cost of the funeral goods and services selected, the payor is entitled to a refund of the excess. If the account balance of the trust upon the death of the beneficiary is insufficient to pay for the funeral goods and services selected, adjustments must be negotiated between the

payor and the funeral home. In no event is the funeral home obligated to provide funeral goods or services for which the funeral home will not be compensated.

Payment toward the cost of a credit for service mortuary trust agreement may be made in any amount at any time. A credit for service mortuary trust agreement may be guaranteed by a third party. Funeral goods and services may be selected at time of execution or at any later time.

The payor and the funeral home, upon mutual agreement, may replace a credit for service mortuary trust agreement with a guaranteed price mortuary trust agreement at any time prior to the death of the beneficiary.

A credit for service mortuary trust agreement may contain a conditional guarantee to provide the funeral goods and services selected. Conditions may include, but are not limited to:

- A. Agreement by the funeral home to provide the funeral goods and services selected once the price set forth in the agreement has been paid in full; and
- B. Reservation by the funeral home of the right to seek payment from the family or estate of the beneficiary, a guarantor or other payment source for funeral goods and services provided by the funeral home pursuant to the agreement for which the funeral home has not been paid.

2. Maine Mortuary Trust Agreement – Guaranteed Service

What it is – A guaranteed service mortuary trust agreement obligates a funeral home to provide the funeral goods and services selected, with the possible exception of cash advance items, upon the death of the beneficiary, whenever that may be. The contract price must be paid in full by the payor at time of execution, with the possible exception of cash advance items.

The funeral home must provide the funeral goods and services selected, with the possible exception of cash advance items, upon the death of the beneficiary regardless of the account balance of the trust at the time of the beneficiary's death. If the cost of the funeral goods and services selected at time of death exceeds the account balance of the trust, the funeral home must provide the funeral goods and services selected, with the possible exception of cash advance items, regardless of cost and without recourse to the family or estate of the beneficiary or any other payment source. If the cost of the funeral goods and services selected at time of death is less than the account balance of the trust, the funeral home may retain the difference in recognition of the risk of inflationary costs.

3. Maine Mortuary Trust Agreement – Life Insurance

What it is – A life insurance mortuary trust agreement funds the provision of funeral goods and services from the proceeds of an existing life insurance policy

payable upon the death of the person insured. Life insurance mortuary trust agreements may only be credit for service. Guaranteed service life insurance mortuary trust agreements are not permitted. Funeral goods and services may be selected at time of execution or at any later time.

3. Substantial Conformance

A mortuary trust agreement or addendum substantially conforms to one of the forms attached to and made a part of this chapter if:

1. The mortuary trust agreement is identical in all respects to one of the forms attached to and made a part of this chapter; or
2. The mortuary trust agreement or addendum contains all the provisions contained in the applicable form attached to and made a part of this chapter plus additional provisions, provided that:
 - A. None of the additional provisions are inconsistent with any provisions of the form;
 - B. None of the additional provisions dilute any protection afforded to consumers by the form; and
 - C. None of the additional provisions are inconsistent with 32 MRSA §1401; or
3. The mortuary trust agreement is a credit for service mortuary trust agreement that:
 - A. Contains a conditional guarantee to provide funeral goods and services selected; and
 - B. Is otherwise in compliance with Section 3(2) of this chapter.

A mortuary trust agreement that meets the requirements of this Section may be printed on funeral home letterhead.

4. Minimum Type Size

No practitioner of funeral service, funeral director or funeral home shall use any form of mortuary trust agreement, including those printed on funeral home letterhead, in which the body copy is less than 12 points in size.

5. Selection of Goods and Services Mandatory in Guaranteed Service Mortuary Trust

No funeral director, practitioner of funeral service or funeral home shall execute a guaranteed service mortuary trust agreement unless the payor or settlor has first selected all necessary funeral goods and services, with the possible exception of cash advance items.

6. Fees

1. Life Insurance Mortuary Trust Agreements

No fee may be charged by a practitioner of funeral service, funeral director or funeral home in connection with a life insurance mortuary trust agreement.

2. Guaranteed Service Mortuary Trust Agreements; Credit for Service Mortuary Trust Agreements Other Than Life Insurance Mortuary Trust Agreements

Fees may be charged in connection with guaranteed service mortuary trust agreements, and credit for service mortuary trust agreements other than life insurance mortuary trust agreements, only to the extent set forth in this subsection. Any fees charged by practitioners of funeral service, funeral directors and funeral homes for the administrative services they render as payees must be specified in the agreement. No initiation fee, however denominated, may be charged in connection with the creation of a mortuary trust. No fees may be charged except for the following services, and may not exceed the amounts shown below:

- A. Transfer of account by appointment of successor trustee .7% of trust funds,
not to exceed \$250
- B. Revocation of a revocable agreement 7% of trust funds,
not to exceed \$250
- C. Actual annual financial and tax administration of the account performed
by or on behalf of the funeral home 25% of net interest
earned per annum,
not to exceed \$125

No fee for financial or tax administration may be charged for work not actually performed.

“Net interest earned per annum” is the net interest, investment income or appreciation earned by the mortuary trust account after deduction of any fees charged by the financial institution or credit union in which the account is held.

7. Inspection of Records

Mortuary trust agreements and all books, records and accounts related thereto, including the record of deposits, insurance policies and insurance records, and the accountings required by the agreements attached to and made a part of this chapter—

- 1. Must be made available by the funeral home for inspection by a funeral inspector or authorized employee of the Office of Licensing and Registration upon request during reasonable business hours without prior notice; and

2. Must be promptly delivered by the funeral home to a state funeral inspector, authorized employee of the Office of Licensing and Registration or the board upon request.

8. Sale or Transfer of Funeral Home

Upon the sale or transfer of a funeral home, whether voluntary or involuntary, and except as otherwise ordered by a court of competent jurisdiction, the new owner—

1. Shall automatically be substituted as trustee of all existing mortuary trusts of which the former owner is trustee; and
2. Shall assume the former owner's obligation to perform all existing preneed contracts for funeral goods and services to which the former owner is a party.

9. Notice of Change of Trustee Upon Change of Ownership

Within thirty (30) days after a change of ownership as defined in Chapter 1, Section 4-A of the board's rules, the new owner, or the funeral home, shall:

1. Notify the payor, settlor or alternate contact person identified in the mortuary trust agreement or preneed contract of the change in ownership and inform such person:
 - A. In the case of a mortuary trust agreement,
 - (1) That the new owner has assumed the role of trustee under the agreement and will provide all funeral goods and services required by the agreement; and
 - (2) That the payor, settlor or other contact person is free at any time to request the resignation of the trustee and designate a different funeral home as successor trustee; or
 - B. In the case of a preneed contract for funeral goods and services, that the new owner will perform the contract and will provide all funeral goods and services required by the contract; and
2. Notify the financial institution or credit union where the guaranteed service or credit for service mortuary trust is held that the new owner has been automatically substituted as payee pursuant to Section 8 of this chapter and has assumed the role of trustee under the agreement.

10. Effective Date

Section 7 of this chapter applies to all mortuary trust agreements, whenever executed, upon the effective date of this chapter. Sections 8 and 9 of this chapter and any amendments thereto apply to all sales, transfers and changes of ownership of funeral

homes occurring on or after the effective date of this chapter or amendment, as the case may be. The remaining provisions of this chapter and any amendments thereto apply to all mortuary trust agreements executed on or after the effective date of this chapter or amendment, as the case may be.

STATUTORY AUTHORITY: 32 MRSA §§ 1401(2), 1451 and 1501

EFFECTIVE DATE: 120th day after the date on which this chapter is filed with the Secretary of State

February 21, 2002 (120th day after the date on which this chapter is filed with the Secretary of State)

NON-SUBSTANTIVE CORRECTIONS:

March 29, 2004- Appendices, spelling and punctuation only

AMENDED:

120 days after filing with the Secretary of State, filing 2009-703.
Filing date: December 21, 2009.