

## RS 37:831

### CHAPTER 10. EMBALMING AND FUNERAL DIRECTORS PART I. GENERAL PROVISIONS

#### §831. Definitions

For purposes of this Chapter and implementation thereof, the following terms have the meaning as defined herein, unless the context clearly indicates otherwise:

(1) "Active licensee" means an individual that holds a funeral director or embalmer and funeral director license issued by the board and who has complied with all requirements of this Chapter.

(2) "Addiction" means the physiological or psychological dependency on drugs or alcohol.

(3) "Advertisement" means the publication, dissemination, circulation, or the 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, or tag, or over any radio station, television station, or both.

(4) "Approved continuing education program" means a continuing education program activity which is approved by the board.

(5) "Approved provider" means any continuing education provider approved by the board.

(6) "Association" means a partnership, a combination or group of individuals, or an unincorporated organization of persons having a common interest.

(7) "Authorizing agent" means a person legally entitled to authorize the cremation of human remains.

(8) "Board" means the Louisiana State Board of Embalmers and Funeral Directors.

(9) "Body parts" means human remains or limbs or other portions of the anatomy that are severed from the body during an accident; removed from a person for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or otherwise become unattached from the body. It also means human bodies or any portion of bodies that have been donated to science for medical, educational, or research purposes.

(10) "Branch establishment" means a licensed funeral establishment devoted to or used in the care of the body of a deceased person, or maintained or held out to the public, by advertising or otherwise, as the office or place for the practice of funeral directing. Ownership of the branch is identical to the ownership of the main funeral establishment controlling the branch, and such establishment can practically be served by the licensed personnel of the main establishment.

(11) "Burial" means the act or process of disposing of a human body by depositing it in the earth, at sea, or by any other accepted disposition.

(12) "Burial-transit permit" means the permit for disposition of a dead human body as required by state law.

(13) "Buyer" means the person entering into a preneed funeral contract with a licensed funeral establishment.

(14) "Capper", "steerer", or "runner" means a person who, for monetary benefits or other considerations, procures or attempts to procure business at the direction of, request of, or in cooperation with a licensee by means of deceit, trick, fraud, or misleading statements.

(15) "Care of the dead" means watchful observation of the deceased person and attention given to the survivors and friends.

(16) "Casket" means a rigid container which is designed for the encasement of human remains usually constructed of wood, metal, fiberglass, or other similar material and ornamented

and lined with fabric, which may or may not be combustible, for transportation, or for other disposition.

(17) "Certificate" means a license issued by the board.

(18) "Change of ownership" means a transfer of more than fifty percent of the stock or assets of a funeral establishment or crematory authority.

(19) "Closed container" means any container in which cremated human remains can be placed and closed in a manner so as to prevent leakage or spillage of remains or the entrance of foreign material.

(20) "Contagious disease" means a disease which is communicable by contact.

(21) "Continuing education" means that education which is obtained by a licensee through education processes in order to develop, maintain, improve, or expand skills and knowledge.

(22) "Corporation" means a body formed and authorized by law to act as a single person although constituted by one or more persons and legally endowed with various rights and duties.

(23) "Cremated human remains" means all the remains of the human body recovered after the completion of the cremation process, including processing, pulverization, or processing and pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of any foreign material that was cremated with the human remains.

(24) "Cremation" means the technical process, using direct flame and heat, that reduces human remains to bone fragments through heat and evaporation. Cremation may also include the processing, pulverization, or the processing and pulverization of bone fragments.

(25) "Cremation container" means the container in which the human remains are transported to the crematory and placed in the cremation retort for cremation. A cremation container should substantially meet all of the following standards:

(a) Be composed of materials suitable for cremation.

(b) Provide a complete covering for the human remains.

(c) Be resistant to leakage or spillage.

(d) Be rigid enough for handling with ease.

(e) Provide protection to safeguard the health, safety, welfare, and personal integrity of crematory personnel.

(26) "Cremation retort" means the enclosed space within which the cremation process takes place.

(27) "Crematory" means the building or portion of a building that houses the cremation retort for the reduction of bodies of deceased persons to cremated human remains.

(28) "Crematory authority" means the legal entity which is licensed by the board to operate a crematory.

(29) "Crematory retort operator" means the individual who is authorized and licensed by the board to operate the retort and perform the cremation process.

(30) "Deceptive" means tending or having power to impose a false idea or belief or causing one to believe an untruth.

(31) "Dishonest conduct" means a standard of personal behavior by a funeral director, or embalmer, or both, characterized by a willful distortion of the truth in an attempt to deceive, cheat or defraud.

(32) "Disinterment" means the act or ceremony of extracting a dead human body from the earth or tomb.

(33) "Disposition" means the shipment, interment, burial, cremation, or anatomical donation of a dead human body or parts of a dead human body.

(34) "Embalmer" means a person who disinfects or preserves, or both, a dead human body or bodies, entirely or in part, by the use of chemical substances, fluids, or gases ordinarily used,

prepared, or intended for such purposes, either by outward application of such chemical substances, fluids, or gases on the body, or by the introduction of same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities.

(35) "Embalmer and funeral director" means a person to whom a valid license has been issued by the board to perform the duties of embalming and funeral directing.

(36) "Embalming" means preparing, disinfecting, and preserving, either hypodermically, arterially, or by any other recognized means, the body of a deceased person for burial, cremation, or other disposition.

(37) "Financial institution" means a state or national bank, savings bank or savings association located in the state of Louisiana and whose deposits are insured by the Federal Deposit Insurance Corporation, including homesteads, building and loan associations and savings and loan associations.

(38) "Firm" means a business unit or enterprise or a partnership of two or more persons not recognized as a legal person distinct from the members composing it.

(39) "Formal hearing" means a hearing as provided for in R.S. 37:847.

(40) "Fraud" means the intentional distortion of the truth by a funeral director, or embalmer, or both, in order to induce another to part with something of value or to surrender to a legal right.

(41) "Funeral" means the observances held for a dead person usually before burial or cremation.

(42) "Funeral directing" means the operation of a funeral home, or, by way of illustration and not limitation, any service whatsoever connected with the management of funerals, or the supervision of hearses or funeral cars, the purchase of caskets or other funeral merchandise, and retail sale and display thereof, the cleaning or dressing of dead human bodies for burial, and the performance or supervision of any service or act connected with the management of funerals from time of death until the body or bodies are delivered to the cemetery, crematory, or other agent for the purpose of disposition.

(43) "Funeral director" means a person to whom a valid license has been issued by the board to perform the duties of funeral directing.

(44) "Funeral establishment" means any place or premises duly licensed by the board and devoted to or used in the care and preparation for disposition of the body of a deceased person or maintained or held out to the public by advertising or otherwise as the office or place for the practice of funeral directing.

(45) "Funeral goods and services" means any one or more of the following goods or services:

(a) Goods which are sold or offered for sale directly to the public for use in connection with funeral services.

(b) Any services which may be used to care for or prepare deceased human remains for burial, cremation, or other final disposition.

(c) The arranging, supervising, or conducting of the funeral ceremony or the final disposition of deceased human bodies.

(d) Funeral merchandise.

(46) "Funeral merchandise" means: caskets, rental caskets, rental casket inserts, alternative containers, combo/shipping caskets, and other receptacles, excluding urns, where human remains are directly placed for disposition.

(47) "Funeral recipient" means the individual for whom funeral goods and services are to be provided under the terms of a preneed funeral contract.

(48) "Funeral trust account" means an account established pursuant to R.S. 37:865(B)(1).

(49) "Gratuity" means an inducement given voluntarily or beyond obligation to gain business.

(50) "Guaranteed funeral goods and services" means funeral goods and services which a funeral establishment agrees to provide for a named funeral recipient upon death which are a specifically identified set of funeral goods and services designated as guaranteed and for which a funeral trust account has been established or a preneed insurance policy or annuity has been purchased or assigned to pay for those funeral goods and services, provided the buyer has fully funded a funeral trust account, or has fully paid for a preneed funeral policy or annuity, within a specified period of time after the preneed funeral contract is made and the funeral establishment has agreed to accept the funds available in the funeral trust account or preneed insurance policy or annuity during the term of the guarantee as payment in full for those funeral goods and services so that there will be no additional cost to the funeral recipient's family or his or her estate for those funeral goods and services.

(51) "Holding facility" means an area within or adjacent to the crematory designated for the short-term retention of human remains prior to cremation that shall fulfill all of the following requirements:

- (a) Comply with any applicable public health laws.
- (b) Preserve the dignity of the human remains.
- (c) Recognize the integrity, health, safety, and welfare of the crematory authority personnel operating the crematory.
- (d) Be secure from access by anyone other than authorized personnel.

(52) "Hour of continuing education" means a unit of measurement equivalent to an organized learning experience of fifty consecutive minutes.

(53) "Human remains" means the body of a deceased person, or part of a body or limb in any stage of decomposition that has been removed from a living or dead person.

(54) "Inactive licensee" means an individual that holds a funeral director or embalmer and funeral director license issued by the board not practicing in any capacity in this state and who has not met the requirements of R.S. 37:854.

(55) "Incompetency" means the lack of skills or qualities necessary to perform the duties of funeral director, or embalmer, or both.

(56) "Infectious disease" means a sickness or malady which is easily diffused, or spread, or communicated.

(57) "Informal meeting" means a fact gathering session of the board as provided for in R.S. 37:847.

(58) "Interment" means the act or ceremony of burying a dead human body.

(59) "Interment receptacle" means an enclosure in which a casket is placed.

(60) "Intern" means a person who is duly registered as such with the board while in the employ of a funeral establishment and who is engaged in learning the practice of funeral directing, or the practice of embalming, or both as the case may be, under the supervision of a funeral director or funeral director and embalmer duly licensed by the board and available on the same premises for consultation.

(61) "Joint venture" means a speculative business enterprise involving the united activity of two or more persons.

(62) "Legal custody" means the immediate care, charge, and control exercised by a person or an authority according to or within the law.

(63) "Malpractice" as used in this Chapter, means a negligence from professional duty or a failure to exercise an acceptable degree of skill or learning as a funeral director, or embalmer, or both that results in injury, loss, or damage.

(64) "Mandatory disclosure" means to divulge necessary, required information relating to services and merchandise offered by the funeral home establishment and pertaining to any other

conditions known at the time funeral arrangements are made.

(65) "Mislead" means to lead into a mistaken action or belief often by deliberate deceit.

(66) "Misrepresentation" means the act of giving a false, or misleading representation with an intent to deceive.

(67) "Next of kin" means one or more living persons in the nearest degree of relationship to another person.

(68) "Partnership" means a legal relationship existing between two or more persons contractually associated as joint principals in a business.

(69) "Prearrangement" means the non-binding gathering and exchange of information before the death of an individual that provides guidance for a funeral or final disposition of that individual and does not result in a preneed funeral contract.

(70) "Preneed funeral contract" means any written agreement between a buyer and a funeral establishment in which a funeral establishment agrees, prior to the death of a named funeral recipient, to furnish funeral goods and services for the funeral recipient upon death, and the buyer, pursuant to that agreement, transfers or tenders funds, or assigns an insurance policy or annuity to the funeral establishment for the purpose of paying all or part of the cost of those funeral goods and services at the time they are actually provided. The contract may be designated as revocable or irrevocable and may be guaranteed or non-guaranteed as to some or all of the funeral goods and services included therein.

(71) "Preneed insurance policy or annuity" means any policy or contract of insurance issued by an insurance company in accordance with Title 22 of the Louisiana Revised Statutes of 1950, and used to fund a preneed funeral contract.

(72) "Preparation" means the actions or processes necessary to make a dead body ready for disposition.

(73) "Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual or mechanical means.

(74) "Program instructor" means an organization or person who conducts or presents continuing education to licensees.

(75) "Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation and processing of granulated particles by manual or mechanical means.

(76) "Reburial" means to transfer or transport a body from one place to another for reinterment.

(77) "Refund designee" means the person designated in a preneed funeral contract by the buyer to receive any surplus of funds as provided in R.S. 37:865(G) and (I).

(78) "Removal" means to transfer or transport a body from one place to another for preparation for burial or reburial.

(79) "Sole proprietorship" means one who has the legal right or exclusive title to something.

(80) "Solicitation" means the act or practice of any licensee, or any agent, employee, or person acting on his behalf, approaching a person or a group of persons to make a request or plea, or to urge someone toward a particular cause as it may pertain to the care, custody, or disposition of a dead human body.

(81) Repealed by Acts 2014, No. 264, §2.

(82) "Temporary container" means a receptacle for cremated human remains usually made of cardboard, plastic, or similar material designed to hold the cremated human remains until an urn or other permanent container is acquired. "Temporary container" shall not mean a "temporary receiving vault" as defined in R.S. 8:1.

(83) "Temporary license" is a license issued for a period of not more than six months to an individual who has been licensed for a period of not less than one year and who has been active as

an embalmer and funeral director or funeral director in another state, province, or jurisdiction recognized by the board and who meets all of the requirements of this Part. The license entitles the holder to practice embalming and funeral directing or funeral directing in the state of Louisiana under the general supervision of a licensed establishment manager. The license shall become null and void if the license being endorsed is revoked, suspended, or lapsed.

(84) "Transfer" means to convey from one person, place, or situation to another.

(85) "Unethical or unprofessional conduct" as used in this Chapter means a standard of personal behavior by a funeral director, or embalmer, or both, or intern, or individual working under the authority of a temporary license not conforming to accepted, professional principles of the funeral service profession.

(86) "Untrustworthiness" means the quality or state of not being worthy of confidence.

(87) "Untruthful" means to be false, inaccurate, or dishonest.

(88) "Urn" means a receptacle designed to permanently encase cremated human remains.

Acts 1963, No. 12, §1; Acts 1966, No. 19, §1, eff. June 15, 1966 at 10:30 A.M.; Acts 1977, No. 283, §1; Acts 1983, No. 454, §1; Acts 1990, No. 415, §1, eff. Sept. 1, 1990; Acts 2003, No. 1243, §2; Acts 2008, No. 799, §1, eff. Jan. 1, 2009; Acts 2010, No. 373, §1; Acts 2012, No. 176, §1, eff. Jan. 1, 2013; Acts 2014, No. 264, §1, 2; Acts 2015, No. 25, §1.