

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXVII. Embalmers and Funeral Directors

Chapter 1. General Provisions

§101. Definitions

A. The terms *Board, Embalmer, Funeral Directing, Funeral Director, Crematory, Crematory Retort Operator, Intern, and Certificate*, are as defined in Section 831 of the embalming statute, as amended by Act 19 of 1966 and Act 1243 of 2003.

B. *Establishment*—a licensed funeral home which shall consist of the following: adequate parlors or chapel, adequate separate toilet facilities for both men and women, an adequate climate control system, display room, office or arrangement room, embalming room and other furnishings, equipment and facilities of suitable and dignified quality with signage sufficient to be visible from the street to adequately serve the public.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:831 and R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2817 (December 2004).

§103. Duties of Officers

A. The president shall be the presiding officer at all meetings and is required to call a meeting at least once a year or more often, if necessary, for the proper and efficient performance of the board's functions. In the absence of the president, the vice president shall assume these duties.

B. The secretary shall keep a record of the proceedings of all meetings of the board and of all other matters of which a record shall be ordered by the board. He shall issue all notices of meetings of the board; prepare an agenda for and keep minutes of such meetings, and a record of individual attendance at the meetings of the board; and shall perform all such other duties as are usually incident to his office or as may be required by the president or the board.

C. The duties of the treasurer shall be to comply with R.S. 37:838 of Act 19, 1966.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:831 and R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2817 (December 2004).

§105. Special Meetings

A. Special meetings of the board may be called by the president at any time. Special meetings may also be called upon the written request of three members, which request must specify the purpose of the meeting, and the president then shall call such a meeting. Notice of such special meeting specifying the purpose thereof shall be mailed by the secretary to each member at least five days in advance of the date set for such special meeting.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:831 and R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2817 (December 2004).

§107. Advertising

A. The use of misleading or false advertising will constitute unprofessional conduct. The following classes of advertising shall be deemed to be misleading:

1. advertising the price of caskets exclusively, without stating that the price does not include other merchandise and services, since the natural inference of the public is that the advertised price of caskets includes the price of the service;

2. offering service at "cost" plus a percentage, when the determination of the "cost" lies within the control of the funeral director or embalmer and is not advertised and included within the General Price List of the funeral home;

3. advertising or sale of certificates or stock participation or any form of agreement which creates the impression with the purchaser, when such is not a fact, that he becomes a part owner in the advertiser's establishment and therefore entitled to special price privileges for funeral services;

4. advertising which impugns the honesty, trustworthiness, of the business or professional standards of competitors, or which states that the prices charged by competitors are considerably higher than those charged by the advertiser, when such is not the fact;

5. advertising which represents the advertiser to be the special defender of the public interest or which makes it appear that the advertiser is subjected to the combined attack of competitors. Such expressions as "independent," "not in the trust," "not controlled by the combine," and other expressions having the same import shall be deemed to be misleading unless it be shown by the advertiser that there is a "trust," or a "combine" and that other funeral directors constitute a monopoly for the purpose of maintaining prices or for any other purpose; and the burden of proving such "trust," "combine," or "monopoly" shall be upon the advertiser asserting the existence of the same.

B. It is prohibited for a licensed funeral establishment to authorize advertising by others not licensed by this board, when such advertising offers services and/or merchandise primarily performed and offered by a licensed funeral director/embalmer and establishment, as defined in R.S. 37:831-861. Such advertising shall be considered as an inducement when used along with or in conjunction with plans, merchandise, pre-need plans, or the like which are normally sold by others. The above rule does not, however, prohibit a licensed funeral establishment from advertising an affiliation with an insurance company.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 4:227 (June 1978), LR 5:279 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2818 (December 2004).

§109. Attire for Embalmers and Crematory Retort Operators

A. Each Louisiana licensed embalmer or intern, while engaged in embalming a dead human body, shall be attired in a clean and sanitary smock or gown; and the body being embalmed shall at all times be covered so as to insure the privacy of said body.

B. Each Louisiana licensed embalmer or intern, while engaged in embalming a dead human body, shall be properly attired to provide for his/her own safety as well as the safety of others and in that regard, it is suggested that the proper attire of the embalmer or intern shall include the following:

1. a sanitary waterproof disposable gown, apron or smock;
2. clean and sanitary rubber or latex gloves;
3. a mask or some other type of protective shield for eye and face protection; or
4. any other applicable safety devices required by OSHA.

C. Protective clothing should be removed before leaving the preparation room and deposited within a container that can be properly disposed of in accordance with governmental codes covering such disposals.

D. Every crematory authority shall make available for use by the crematory retort operator, while engaged in the process of cremating a dead human body, heat resistant gloves and apron; protective face shield (heat reflective); and, any other applicable safety devices required by OSHA.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 30:2818 (December 2004).

§111. Mandatory Disclosure

A. Every funeral establishment in this state and/or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements, either at need or pre-need, 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 showing to the extent then known:

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

B. If the funeral establishment charges for purchasing a cash advance item, or if it receives and retains a rebate, commission, or trade or volume discount for a cash advance item, it must make the following disclosure:

"We charge you for our services in obtaining: (specify cash advance items)."

C. All funeral merchandise and/or services offered by a licensed establishment in this state shall be available for viewing by the general public and the price shall be prominently displayed on or immediately next to the merchandise or service.

D. Should a funeral home be designated in a pre-need funeral arrangement contract and designated further as a beneficiary of funds from any source which are to be used to fund the proposed funeral service, and should a funeral service not be provided,

then the said funeral home shall refund the entire amount of the proceeds received to the estate of the deceased, unless directed otherwise within the pre-need funeral arrangement contract.

E. If for any reason the casket and/or merchandise selected at the time of the prepaid, pre-need arrangement contract is not available at the time of death, then the funeral home must offer a similar casket and/or merchandise that is equal to or greater than the at-need value of the casket and/or merchandise selected at pre-need.

F. Disclosures as required by the FTC's Funeral Industry Practices Rule must be provided to the person or persons inquiring about and/or making funeral arrangements.

G. When money is made available to the funeral home over and above the amount owed for merchandise and services under no circumstances should the excess funds be utilized for any funeral home operating expenses and arrangements shall be made within a 30 day period for refund of same.

1. Should there be a pre-need contract, then the terms and conditions of that contract shall determine the amount owed for merchandise and services at the time of need in calculating and determining the amount of money, if any, to be refunded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 17:1101 (November 1991), LR 30:2818 (December 2004), LR 34:2400 (November 2008).

§113. Right of Care of Remains

A. A funeral establishment, its employees, and licensees shall not respond to a death call unless properly contacted and requested.

B. When determining the right of care of remains the funeral establishment shall look to the provisions of R.S. 8:655 as a guideline to determine the order of preference in dealing with representatives of the deceased for interment and/or the provisions of R.S. 37:876 as a guideline as it relates to cremation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:1423 (November 1993), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2819 (December 2004).