

49 PA. CODE, CHAPTER 13
REGULATIONS OF THE
STATE BOARD OF FUNERAL DIRECTORS

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GENERAL PROVISIONS

§ 13.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Funeral Director Law (63 P.S. §§ 479.1—479.20) which regulates the licensure of persons and of corporations engaged in the preparation and disposition of the bodies of deceased persons.

Board—The State Board of Funeral Directors of the Department of State of the Commonwealth.

Bureau—The Bureau of Professional and Occupational Affairs of the Department of State of the Commonwealth.

Commissioner—The Commissioner of Professional and Occupational Affairs of the Department of State of the Commonwealth.

Funeral entity—A restricted business corporation, professional corporation, pre-1935 corporation, partnership, sole proprietorship, widow, widower or estate authorized by the Board to practice the profession of funeral director.

Funeral establishment—A place or premise approved by the Board wherein a licensed funeral director conducts the professional practice of funeral directing, including the preparation, care and funeral services for the human dead.

Hour of continuing education—Sixty minutes of actual instruction in an approved course of continuing education.

Licensed funeral director—An individual who has met the educational requirements and passed the examinations required by the act.

Limited license—A license issued by the Board that authorizes a person licensed to practice funeral directing in a reciprocal state to practice funeral directing in this Commonwealth in accordance with section 9(c) of the act (63 P.S. § 479.9(c)).

Preceptor—A licensed funeral director under or with whom a resident intern is registered and operates.

Premises—The property on which the funeral establishment is located which consists of a tract of land not intersected by a public highway or thoroughfare.

Prepaid burial account—An account in which moneys are deposited by the funeral director during the lifetime of an individual in accordance with a contract executed between the parties for funeral merchandise and services to be performed and delivered at a future time.

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Prepaid burial contract—A contract executed between a consumer and a licensed funeral director which provides that the funeral director will provide funeral merchandise and render services to the consumer upon the consumer's death or the death of another designated individual and for which the consumer pays to the funeral director moneys at the time of the contract or at a time prior to the rendition of these services.

Profession—The aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as funeral directors licensed under the act.

Reciprocal state—The District of Columbia or a state or territory of the United States of America whose agency that is authorized to license persons to practice the profession of funeral director in that jurisdiction has entered into an agreement with the Board under which persons licensed in that jurisdiction may receive a limited license in this Commonwealth.

Restricted business corporation—A business corporation formed under 15 Pa.C.S. (relating to the Associations Code) and authorized under the act.

~~*Supervisor*—A licensed funeral director employed on a full time basis to supervise the professional activities of a licensed estate, widow, business corporation pre-1935 restricted business corporation, professional corporation or branch place of practice under any of the foregoing, as defined in the act.~~

§ 13.2. [Reserved].

LICENSURE

§ 13.11. General requirements.

(a) Persons engaging in the profession of a funeral director in this Commonwealth shall be licensed by the Board and by the Commissioner.

(b) To qualify as a candidate for the licensing examination, the applicant shall be 21 years of age or older, of good moral character and shall present satisfactory evidence to the Board that the applicant has satisfied the educational and training requirements of the act and this chapter.

(c) In addition to the educational and training requirements, an applicant for licensure in this Commonwealth shall pass a combined oral, practical and written examination. A limited exception will be the granting of a restricted license to estates, widow's or widower's of deceased funeral directors.

(d) An applicant for licensure as a funeral director in this Commonwealth shall complete at least 3 hours of training in child abuse recognition and reporting in accordance with § 13.308(a) (relating to child abuse recognition and reporting—mandatory training requirement) as a condition of licensure.

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§ 13.12. Fees.

Following is the schedule of fees charged by the Board:

Initial registration for student trainee	\$25
Annual registration for student trainee	\$15
Initial registration for resident intern.	\$25
Initial registration for preceptor or change	\$25
Initial license for funeral director	\$25
Initial license for restricted business corporation, professional corporation, partnership or shared funeral establishment.	\$150
Initial license for estate or widow, sole proprietorship or branch office	\$125
Initial registration for supervisor	\$25
Change director or name on existing license without reinspection	\$35
Address change with inspection	\$125
Reinspection after failure	\$85
Certification	\$25
Verification of licensure or registration	\$15
Biennial renewal.	\$400
Application for limited license	\$35
Biennial renewal of limited license.	\$35
Application for continuing education course	\$100
Application for continuing education provider.	\$100
Renewal of registration of continuing education provider	\$50

§ 13.13. [Reserved].

STUDENT TRAINEE

§ 13.21. Qualification.

(a) To qualify as a student trainee, an applicant shall show evidence of high school graduation. Fulfillment of the college education requirement of subsection (b) is acceptable as evidence of high school graduation.

(b) At least 2 years of college credits in liberal arts is required. For purposes of this section, a minimum of 60 semester hours will constitute the equivalent of 2 years of college credit.

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(c) An applicant, while attending an accredited college or university, shall file a declaration of the applicant's intent to procure funeral service licensing and shall submit an application for a student trainee registration card renewable annually.

§ 13.22. Matriculation at approved school.

To qualify as a student trainee, an applicant shall be accepted for matriculation at a mortuary college or a university or college specializing in mortuary subjects which has been approved by the American Board of Funeral Service Education, Inc., and the Board. This requirement shall be met after satisfying the college requirement set forth in § 13.23 (relating to college requirements), or by meeting the integrated course of study requirement set forth in § 13.24 (relating to coordinated course of study).

§ 13.23. College requirements.

To qualify as a student trainee, an applicant shall have completed at least 2 full years of college level credit in an institution of higher education which has the legally authorized approval of its own state department of education. For purposes of this section, a minimum of 60 semester hours will constitute the equivalent of 2 years of college credit. The earned credits shall be in areas of general education which are applicable to a liberal arts program. The applicant shall submit a transcript for evaluation by the Director of Credentials Evaluation of the Department of Education prior to being registered as a student trainee at an approved mortuary school with a 1-year course in mortuary science approved by the American Board of Funeral Service Education.

§ 13.24. Coordinated course of study.

In lieu of the requirement of § 13.23 (relating to college requirements), an applicant shall be permitted to present evidence that the applicant has been accepted for matriculation at a college or university, with an accredited department of mortuary arts and sciences accredited by the American Board of Funeral Service Education.

§ 13.25. Application.

An application may be obtained from the State Board of Funeral Directors, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649. An application in completed form, accompanied by the prescribed fee and photographs, shall be filed with the Board at least 30 days prior to commencement of matriculation at a school specializing in mortuary science. Upon request, the applicant shall appear before the Board for an interview and evaluation of the applicant's qualifications. An approved application shall be valid for 1 year unless an applicant changes schools. If the applicant changes schools, the applicant shall immediately reapply for approval as a student trainee and pay another application fee. An approved application shall be noted by the Administrative Assistant to the Board in a separate register which shall contain, among other items, the date of the approval and the name of the school to be attended by the student trainee.

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RESIDENT INTERN

§ 13.31. Qualifications.

(a) To qualify as a resident intern, an applicant shall present satisfactory evidence of having completed, as a student trainee, the requirements in § 13.23 or § 13.24 (relating to college requirements; and coordinated course of study), and of having entered into a preceptorial agreement with a qualified funeral director.

(b) A resident intern shall complete the resident intern training in a funeral establishment in this Commonwealth under the supervision of a qualified preceptor.

§ 13.32. Professional education.

To satisfy the professional education requirements, an applicant shall obtain a certificate of mortuary education from the school of mortuary science and a preprofessional certificate issued by the Department of Education. Evidence of satisfaction of preprofessional education and the executed certificate shall accompany the application for approval as a resident intern.

§ 13.33. [Reserved].

§ 13.34. Qualifications of preceptor.

A licensed and practicing funeral director in good standing with the Board may be registered as a preceptor for one resident intern for every 35 funerals completed in the year preceding the request.

§ 13.35. Application for approval as a resident intern.

The application for approval as a resident intern shall be accompanied by the certificate of mortuary education, a preprofessional certificate, and a copy of the preceptorial agreement which has been executed by the applicant's proposed preceptor. If the Board finds that the forms do not contain the necessary and proper information, the Board may schedule an informal conference to be attended by the applicant and the applicant's prospective preceptor. This conference will provide the opportunity for the applicant to furnish the information required to expedite the approval process.

§ 13.36. Restriction of intern.

A registered resident intern may not have other employment or attend a school of higher education if the employment training interferes with the resident intern training. Employment or attendance at a school shall be under written Board approval following an informal interview.

§ 13.37. General requirements.

By accepting the position of preceptor to a resident intern, a funeral director is required to fulfill the duties as set forth by the Board in this chapter, and failure to execute them may result

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in suspension or revocation of the license of the funeral director, or other disciplinary action or penalty authorized by the act.

§ 13.38. Instruction.

A preceptor shall be prepared to instruct a resident intern in the theory and practice of all aspects of funeral service, including the following:

- (1) The laws of the Commonwealth which pertain to the profession, specifically to include the act, and this chapter.
- (2) The complete theory of funeral directing services, including the following:
 - (i) Initial call details.
 - (ii) Embalming.
 - (iii) Cosmetizing of bodies.
 - (iv) Dressing of bodies.
 - (v) Directing funerals.
 - (vi) Selling of funeral service merchandise.
 - (vii) Recordkeeping.
 - (viii) Purchasing of necessary supplies.
 - (ix) Preparing death certificates and documents.
 - (x) Preparing applications for certain death benefits, such as Social Security, Veterans Administration, insurance companies and lodges.
 - (xi) Follow-up service to the family after the funeral service has been completed.
 - (xii) Counseling of families on the types of services and merchandise available.
 - (xiii) Instruction of prepaid burial accounts.
 - (xiv) Professional responsibilities.

§ 13.39. [Reserved].

§ 13.40. Notification of discontinuance.

(a) A funeral director registered as preceptor for training a resident intern, and the resident intern shall notify the Board of the termination or temporary discontinuance of the supervision of the training of the intern. The Board will thereupon take action it deems proper.

(b) Interruption of the resident intern training period for 30 days or more shall require the resident intern training period to start anew.

§§ 13.41 – 13.45. [Reserved].

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REQUIREMENTS OF RESIDENT INTERN DURING PRECEPTORIAL PERIOD

§ 13.51. Length of resident intern training.

A resident intern shall complete 12 full continuous months in that capacity. An intern shall work a minimum of 40 hours per week.

§ 13.52. Minimum cases.

During the resident intern training period, a resident intern shall complete the details required in § 13.38(2) (relating to instruction) on a minimum of 35 deceased individuals, 1 year of age or older, under the supervision of the intern's preceptor and shall maintain a case history of each deceased individual as set forth in § 13.63 (relating to verification of case requirements). These requirements may be fulfilled at any establishment so long as a licensed funeral director of that establishment certifies the work of the intern and is registered as a preceptor.

§ 13.53. Presence at complete funeral transaction.

The intern shall be present at a minimum of 35 complete funeral transactions from initial call details to the interment and follow-up services. This includes the items in § 13.38(2) (relating to instruction).

§ 13.54. Resignation of intern.

An intern shall give notice of resignation to his preceptor in writing with a copy of the notice to the Board.

§§ 13.55 – 13.56. [Reserved].

APPLICATION FOR EXAMINATION

§ 13.61. Form.

An application for examination shall be upon the form furnished by the Board. The application in completed form accompanied by the required fee and photograph shall be filed with the professional testing agency authorized by the Bureau at least 30 days prior to the date of examination.

§ 13.62. Identification.

One unmounted finished photograph, not a proof, 2 inches by 2 inches, with clear facial features, of each candidate shall be submitted with the application. This photograph will be numbered with the examination number of the candidate and will be returned to the candidate with a card of admission to the examination. Each candidate shall bring the photograph, so numbered, and the admission card to the examination, and the photograph shall be openly

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displayed where the candidate takes the examination. If a candidate loses the photograph and admission card, an additional copy of the candidate's photograph shall be forwarded immediately to the Board office. The appropriate number will be affixed and the photograph and a duplicate admission card will be returned to the candidate for use at the examination. A candidate will be furnished with an admission letter for the examination which will contain the candidate's identification number and information pertaining to the date and place of the examination. A candidate shall bring the letter containing the identification number when registering for the examination.

§ 13.63. Verification of case requirements.

An intern is required to maintain a case history of each case as specified in § 13.52 (relating to minimum cases) which shall be presented at the request of the Board. There shall be at least 35 case histories, and these case histories shall be obtained by working under a licensed funeral director who is registered with the Board as a preceptor. The Board shall be advised in advance of the intent to use a second preceptor to complete the case histories. The case histories shall show that each deceased person was arterially embalmed. The case history shall also show that the deceased person was 1 year of age or older and shall include the following information:

- (1) The name of the deceased person.
- (2) The residence.
- (3) The age.
- (4) The place of the death.
- (5) The date of the death.
- (6) The place of the interment or cremation.
- (7) The name of the funeral director.
- (8) The name of the physician or coroner who signed the death certificate.
- (9) The place of the funeral.

§ 13.64. Affidavit of preceptor.

The application for examination shall include an affidavit of the preceptor indicating that the resident intern training period of the student was properly served, that the preceptor supervised the completion of the requirements of §§ 13.52 and 13.53 (relating to minimum cases; and presence at complete funeral transaction), and that the student completed the details required in § 13.38(2) (relating to instruction) on a minimum of 35 deceased individuals.

§ 13.65. False affidavit.

A preceptor who falsifies an affidavit on a resident intern may, after due notice and hearing, be subject to licensure revocation or suspension for a period of time to be determined by the Board.

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§ 13.66. Refusal of preceptor to furnish affidavit.

(a) A preceptor who refuses to furnish a resident intern with the affidavit of completion of full or part-time service shall immediately submit to the Board a statement as to the reason for the refusal. If the information is not furnished or if there appears to be no proper basis for the refusal, the Board may, after due notice and hearing, take disciplinary action against the license of the preceptor.

(b) If a preceptor refuses to furnish the required affidavit, an applicant may submit with the application a statement that the preceptor refused to honor the applicant's request for an affidavit, and an affidavit from another licensed funeral director who has personal knowledge of the applicant's resident intern training containing the same information that is required in connection with an affidavit of a preceptor.

§§ 13.67 – 13.69. [Reserved].

EXAMINATION

§ 13.71. Examination requirements.

To qualify for licensure, an applicant shall successfully complete the following examinations:

(1) The National Board Examination prepared and administered by the Conference of Funeral Service Examining Boards.

(2) Written and oral examinations on the clinical practice of funeral directing, the act and this chapter, prepared and administered by a qualified and approved professional testing organization authorized by the Bureau. These examinations will be offered twice yearly.

§ 13.72. Examination before internship is completed.

An applicant may take the examination prior to the completion of the internship. An applicant who is examined under this section and who passes the examination will not be issued a funeral director license until documentation evidencing completion by the applicant of the resident intern training requirement is received by the Board or its designee.

§ 13.73. Passing score.

Each section of the examination will be graded independently. To be eligible for licensure, an applicant shall attain a passing score as recommended by the professional testing agency authorized by the Bureau.

§ 13.74. Reexamination.

Upon notice of failure of a section of the examination as specified in § 13.73 (relating to passing grade), the applicant of this title shall be required to retake and pass that section of the examination in which the failure occurred in order to qualify for licensure.

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§ 13.75. [Reserved].

LICENSURE OF A FUNERAL DIRECTOR FROM ANOTHER STATE

§ 13.77. Limited license.

(a) A person licensed by a reciprocal state to practice the profession of funeral director who seeks a limited license shall apply to the Board on a form provided by the Board, including:

(i) An original certification from the reciprocal state that the applicant is licensed as a funeral director in that jurisdiction and is in good standing.

(ii) The fee prescribed by § 13.12 (relating to fees).

(iii) Certification of completion of at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 13.308(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(b) A limited license shall be subject to biennial renewal. The limited license holder shall complete, as a condition of renewal, at least 2 hours of approved continuing education in child abuse recognition and reporting in accordance with § 13.308(b).

(c) A limited license shall become inactive upon the revocation, suspension, placement upon inactive status, or other lapse of the holder's license in the reciprocal state. Unless a limited license is otherwise suspended or revoked, the Board may reinstate the limited license to active status upon proof that the holder's license in the reciprocal state is no longer revoked, suspended, placed on inactive status or otherwise lapsed.

(d) The Board may take disciplinary action against the holder of a limited license for any unprofessional conduct that occurs within this Commonwealth. The Board will report to the reciprocal state any disciplinary action taken against the holder of a limited license.

EFFECT OF LICENSURE DESIGNATIONS

§ 13.81. Designations.

Each funeral director license shall designate the name of the licensee and a place where the licensee may practice.

§ 13.82. Location of practice.

~~[A funeral director may practice only at a funeral establishment designated in the director's license to practice funeral directing unless the funeral director also possesses a branch office license.]~~ **Each funeral director's license will bear the name and location of the funeral**

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establishment that the funeral director has designated as the funeral director's primary location of practice. A funeral director may designate a school whose mortuary science department is accredited by the American Board of Funeral Service Education.

§ 13.83. Effect of name designated on license.

Business conducted by a funeral ~~[establishment]~~ entity shall be conducted only under the name appearing ~~[in the license of the funeral director unless an establishment is operated under partnership operation and control, in which case it shall be conducted under the names of all of the partners involved. A corporation shall conduct its business under the corporate name and the name of the supervisor shall appear on all forms of advertising]~~ on its license.

§ 13.84. ~~[Use of name of the predecessor.]~~ Name of funeral entity.

~~[A sole proprietorship or partnership may be conducted under the name of a predecessor funeral establishment if the name of the owner or partners appear as operator on all signs, forms and advertising. In the case of restricted business corporations or professional corporations, the names of these corporations may be the name of a predecessor funeral establishment.]~~ A funeral entity shall be licensed only under the name of that entity. A funeral entity may be licensed in the name of the entity doing business under a fictitious name used by that funeral entity if the funeral entity either has registered the fictitious name with the Corporation Bureau or is not required to register the fictitious name with the Corporation Bureau.

§§ 13.85 – 13.86. [Reserved].

~~[Between red brackets]~~ = ~~[current language]~~ in the existing regs. that would be ~~[stricken]~~ Bold, blue underlined = new language that would be added to the existing regs.

§ 13.87. Professional responsibility.

(a) A funeral director who in the scope of practice of funeral directing directs other funeral directors or non-licensed individuals shall assure that those other individuals act in compliance with the act and this chapter. The funeral director is professionally responsible for such compliance regardless of the funeral director’s involvement with those individuals or knowledge of the actions of those individuals.

(b) A funeral entity shall assure that its agents and employees acting within the scope of their agency or employment comply with the act and this chapter. The funeral entity is professionally liable for such compliance regardless of the involvement or knowledge of the supervisor or any other individual with managerial authority within the funeral entity.

FUNERAL ESTABLISHMENTS

§ 13.91. Approval of a funeral establishment.

(a) A person applying for approval from the Board to own or operate a funeral establishment, a branch funeral establishment, a partnership, a restricted business corporation or a professional corporation, shall submit the necessary applications on forms provided by the Board. Material accompanying the application shall include: the required fee, a statement that the applicant has the right to occupy the premises, a letterhead, a statement of funeral goods and services for both at-need and preneed, a verification of telephone listing, an inspection report within 12 months of the date of application, an approval form furnished by the Board, a listing of existing prepaid burial contracts that will be assumed by the buyer bearing the signature of the buyer and the seller of the property, or, in the alternative, a document whereby the buyer expressly refuses to assume any or all of the existing prepaid burial contracts.

(b) A buyer of a funeral establishment who assumes the existing prepaid burial contracts of the seller shall, within 30 days of settlement, submit written notification of the transfer to the purchasers of the prepaid burial contracts and forward a specimen copy of the notification to the Board.

§§ 13.92 – 13.93. [Reserved].

~~Between red brackets~~ = ~~current language~~ in the existing regs. that would be ~~stricken~~
Bold, blue underlined = **new language** that would be **added** to the existing regs.

§ 13.94. Requirements for funeral establishments.

A funeral establishment, in addition to conforming with the safety requirements of the Commonwealth and of local authorities, shall contain the following:

- (1) A preparation room for the preparation of human remains.
- (2) A proper area or room for the reposing of human remains.
- (3) Restroom facilities.

SOLE PROPRIETORSHIP LICENSE

§ 13.95. Sole proprietorship license.

(a) A funeral director shall obtain a license to do so in order to operate a sole proprietorship funeral entity.

(b) A limited liability company whose only member is a licensed funeral director may obtain a license to operate a funeral establishment as a sole proprietorship.

§ 13.96. Application for sole proprietor license.

In order to obtain a license to operate a sole proprietorship funeral entity, an applicant shall submit an application to the Board on a form provided by the Board in accordance with § 13.91 (relating to approval of funeral establishment), together with the proper fee. An applicant that is a limited liability company shall provide a copy of its registration filed with the Corporation Bureau of the Department of State.

**SHARED PHYSICAL ESTABLISHMENT OR
PARTNERSHIP BUSINESS**

§§ 13.101 – 13.102. [Reserved].

Between red brackets = **current language** in the existing regs. that would be **stricken**
Bold, blue underlined = **new language** that would be **added** to the existing regs.

§ 13.103. Shared physical establishment.

Two or more funeral ~~directors~~ **entities** may conduct separate businesses at the same physical establishment if each business separately maintains its own books, records, advertising, signs and all other types and kinds of business operations. This method of operation shall be subject to Board approval.

§§ 13.104 – 13.107. [Reserved].

§ 13.108. Notification to Board.

Licensees desiring to conduct separate businesses at the same physical establishment shall give 60 days advance notice of their intention to the Board, accompanied by a certified copy of the agreement under which the licensees intend to conduct their respective businesses. Changes to the agreement during its lifetime shall be reported to the Board by filing a certified copy of the agreement, as amended. Provisions of the agreement relating to financial consideration may be omitted or whited out, as these provisions do not concern the Board.

§ 13.109. Partnership license.

(a) ~~Partnerships shall be licensed. A license will be issued in the names of the licensed partners as specified in the partnership agreement. A copy of the partnership agreement shall accompany the application for a partnership license and include the address of the principal place of business where the partnership will be conducted as well as the address of the branch location, if applicable. Provisions of the agreement relating to financial consideration may be deleted or whited out, as these provisions do not concern the Board.~~ **A partnership of funeral directors shall obtain a license to do so in order to operate a partnership funeral entity.**

(b) ~~Changes in the partnership, the name of the partnership or the location of the business shall be reported to the Board within 30 days of the change.~~ **A limited liability company whose only members are two or more licensed funeral directors may obtain a license to operate a funeral establishment as a partnership.**

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§ 13.110. Application for partnership license.

~~[To obtain a partnership license, an application shall be submitted to the Board with the proper fee. In addition to a copy of the properly executed partnership agreement, forms necessary for approval of a funeral establishment shall accompany the application.]~~ In order to obtain a license to operate a partnership funeral entity, an applicant shall submit an application to the Board on a form provided by the Board in accordance with § 13.91 (relating to approval of funeral establishment), together with the proper fee. An applicant that is a limited liability company shall provide a copy of its registration filed with the Corporation Bureau of the Department of State.

BRANCH OFFICE LICENSE

§ 13.111. Application for branch license.

To obtain a branch license, a licensee shall submit to the Board an application for a branch license, together with forms necessary for approval of a funeral establishment, as set forth in § 13.91 (relating to approval of a funeral establishment).

§ 13.112. Branch facility requirements.

A branch place of practice shall have the same facilities as a principal place of business, as set forth in section 7 of the act (63 P.S. § 479.7), and § 13.94 (relating to requirements for funeral establishments).

§ 13.113. ~~[Permanently assigned]~~ Permanent branch supervisor.

~~[(a) Each branch place of practice shall have a currently licensed funeral director, in good standing with the Board, assigned as supervisor. The supervisor shall supervise all operations of the branch and abide by the act and this chapter and may not be the same licensee who is in charge of the principal place of business.]~~

~~(b) The licensed funeral director acting as supervisor of a branch place of practice may~~

~~[Between red brackets]~~ = ~~[current language]~~ in the existing regs. that would be ~~[stricken]~~
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~~do embalmings and funeral directing for other establishments on a part-time basis, if the licensee's outside employment does not conflict with duties and obligations to the primary employer.~~

~~(c) — A funeral establishment operated as a sole proprietorship in this Commonwealth shall be registered as such with the Board. If a licensee who operates an establishment as a sole proprietor purchases a branch place of business and desires to serve as a supervisor of the branch, the licensee shall apply to the Board in accordance with § 13.118 (relating to registration of a branch supervisor). Another licensed funeral director shall be employed to operate the principal place of business and shall be registered as a supervisor with the Board.~~

Each branch place of practice shall have a supervisor in accordance with § 13.166 (permanent supervisor).

§§ 13.114 – 13.116. [Reserved].

§ 13.117. Business forms.

Letterheads, bill heads, statements of funeral goods and services, and advertising shall show the name and address of the principal place of business, the address of the branch operation and the name of the permanent supervisor, if applicable.

§ 13.118. ~~Registration of branch supervisor.~~ [Reserved].

~~[The owner of a branch place of practice desiring to register a licensed funeral director to act as a permanently assigned supervisor shall apply for registration on forms obtained from the Board. The owner or an authorized representative and the proposed supervisor may be required to appear before the Board for an informal conference if the application does not provide the required information for registration. This conference will provide the owner with the opportunity to present to the Board the information necessary to expedite the approval process.]~~

~~[Between red brackets]~~ = ~~[current language]~~ in the existing regs. that would be ~~[stricken]~~
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§ 13.119. [Reserved].

§ 13.120. Termination of branch license.

A license to operate a branch funeral establishment terminates with the discontinuance of the principal place of business of a licensed funeral director. If a funeral director discontinues the principal place of business but not the branch funeral establishment, the branch office license shall be cancelled and the license of the funeral director amended to show the address of the former branch establishment as the principal place of business.

PRE-1935 BUSINESS CORPORATION LICENSES

§ 13.121. Pre-1935 business corporation licenses.

Only existing pre-1935 business corporation licenses and pre-1935 branch licenses will be renewed and no original licenses will be issued to the corporations.

§ 13.122. Permanent pre-1935 corporation supervisor.

~~[(a) A pre 1935 business corporation which has been licensed to practice funeral directing shall have a licensed funeral director, in good standing with the Board, to be the full-time permanent supervisor.~~

~~[(b) The permanent supervisor, shall be readily accessible to serve the public at the funeral establishment.]~~

A pre-1935 business corporation shall have a permanent supervisor in accordance with § 13.166 (permanent supervisor).

§ 13.123. ~~[Registration of permanent supervisor.]~~ [Reserved].

~~[A pre 1935 business corporation desiring to register permanent supervisors shall apply to the Board on the prescribed form. An authorized representative of the corporation and the proposed permanent supervisor may be required to appear before the Board for a registration conference, if the registration application does not provide the information required to complete~~

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~~the application. This conference will provide these persons an opportunity to provide the Board with the required information, to expedite the approval process.~~

§§ 13.124 – 13.125. [Reserved].

PROFESSIONAL CORPORATIONS

§ 13.131. Generally.

Under 15 Pa.C.S. Chapter 29 (relating to professional corporations), funeral directors may form professional corporations as defined in 15 Pa.C.S. Chapter 29, the act and this chapter and shall be licensed by the Board.

§ 13.132. Shareholder.

Shares of a professional corporation of funeral directors may be issued only to persons who are licensed funeral directors under the laws of the Commonwealth.

§ 13.133. Name.

The name of the professional corporation shall be that of one or more of the licensed shareholders or the name of a predecessor funeral establishment. This name may continue for the life of the corporation or may be changed to that of one or more of the living licensed shareholders.

§ 13.134. Combined professional services.

A professional corporation of funeral directors may not incorporate with other professions.

§ 13.135. Limited ownership and operation.

A licensed funeral director who obtains a professional corporation license or holds shares in a professional corporation may not have stock or a proprietary interest in another funeral establishment except a branch establishment. A licensed funeral director who owned shares in more than one professional corporation prior to February 1, 1977 may maintain ownership of these shares and these corporations may be licensed.

§ 13.135a. Permanent professional corporation supervisor.

A professional corporation licensee shall have a supervisor as required by § 13.166 (permanent supervisor).

§§ 13.136 – 13.140. [Reserved].

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RESTRICTED BUSINESS CORPORATION LICENSES

§ 13.141. Introduction.

Under the act and 15 Pa.C.S. (relating to the Associations Code), funeral directors may form a restricted business corporation as defined in 15 Pa.C.S. and this chapter.

§ 13.142. Name.

Before filing articles of incorporation with the Corporation Bureau of the Department of State, the licensee shall secure Board approval of the name and provide certification that the incorporators are licensed funeral directors. The name of the restricted business corporation shall be the name or the last name of one or more of the licensed shareholders or the name of the predecessor funeral establishment.

§ 13.143. Licensing of restricted business corporations.

(a) To obtain a license for a restricted business corporation, the licensee shall submit an application to the Board on a form provided by the Board.

(b) With the application the following shall be submitted:

(1) A time stamped or certified copy of the original articles of incorporation showing that they have been filed in the Corporation Bureau of the Department of State, and showing the date of the filing.

(2) A copy of the Board's letter approving the name.

(3) A certified statement setting forth:

(i) The names of the shareholders.

(ii) The number and class of shares held by each shareholder.

(iii) The relationship of the shareholders to the licensed funeral director.

§ 13.144. Permanent restricted business corporation supervisor.

~~[(a) A restricted business corporation which has been licensed by the Board to practice funeral directing shall have a licensed funeral director, in good standing with the Board, to be the permanently assigned supervisor.~~

~~(b) The permanently assigned supervisor shall devote full time to the business which he is supervising and may not conduct an establishment of his own or supervise another funeral~~

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~~establishment. The permanently assigned supervisor may not associate in any manner with another funeral establishment or be engaged in another business, occupation or other activity to the extent that this association interferes with or prevents the permanent supervisor from fulfilling the supervisory duties.~~

A restricted business corporation licensee shall have a supervisor as required by §

13.166 (permanent supervisor).

§ 13.145. [Reserved].

WIDOW, WIDOWER AND ESTATE LICENSES

§ 13.151. Issuance of license.

(a) Upon the death of a licensee, the Board will issue a license and renewal thereof to the estate of the deceased for a period not to exceed 3 years, or to the widow or widower of the deceased, without time limitation, if the widow or widower remains unmarried and that written notice of intent to continue practice is given to the Board by the estate or widow or widower of the deceased in accordance with § 13.152 (relating to application).

(b) The widow, widower or the estate of a deceased funeral director is permitted to succeed to the interest of the deceased funeral director in a funeral establishment and shall receive a restricted funeral license for that purpose.

§ 13.152. Application.

To obtain an estate, widow or widower's license, the estate, widow or widower of a deceased funeral director shall inform the Board of the intent to continue practice within 10 days of the deceased's death and request an application for an estate, widow or widower license. The application for an estate, widow or widower license shall be filed within 30 days of the deceased's death and shall include, in the case of an estate license, a short certificate, and in the case of a widow or widower license, a certified copy of the death certificate and a copy of the marriage certificate.

§ 13.153. ~~Affidavit.~~ [Reserved].

~~[The application for an estate, widow or widower license shall be accompanied by an affidavit from a licensed funeral director for registration as a permanent supervisor, together with the prescribed fee.]~~

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§ 13.154. [Reserved].

§ 13.155. Permanent widow/widower or estate supervisor.

A funeral establishment which is operating under a widow, widower or estate license shall have a ~~licensed funeral director, in good standing with the Board, registered as the permanent, full-time~~ supervisor in accordance with § 13.166 (permanent supervisor). ~~[This requirement may be satisfied as follows:~~

(1) ~~If the business of the deceased funeral director was conducted as a partnership, the Board may allow a licensed funeral director/partner to act as permanent supervisor for the widow, widower or estate in lieu of acquiring an additional permanent supervisor.~~

(2) ~~If the deceased funeral director operated a single proprietorship or if the requirement described in paragraph (1) is not satisfactory, a licensed funeral director in good standing with the Board shall be employed as a permanent supervisor.~~

§ 13.156. ~~[Registration of permanent supervisor.]~~ [Reserved].

~~[A widow, widower or estate desiring to register permanent supervisors shall apply to the Board for registration on forms obtained from the Board. The widow, widower or an authorized representative of the estate and the licensed funeral director who is to be the permanent supervisor may be required to appear before the Board for a registration conference if additional information is needed to complete the application and to expedite the approval process. These individuals may also be required to appear for a conference during each license renewal period, if additional information is needed.]~~

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§ 13.157. ~~Professional responsibility of supervisor.~~ [Reserved].

~~[The supervisor for a widow, widower or estate licensee is responsible for complying with the act and this chapter. The widow, widower or estate licensee shall be held responsible for noncompliance only if the Board finds that the licensee had knowledge or should have known of the failure of the supervisor of the establishment to comply with the act or this chapter.]~~

§ 13.158. Signing of documents.

The supervisor of the establishment or the partner of a widow, widower or estate licensee shall execute documents required to be executed on behalf of the establishment, in that person's own name.

§ 13.158a. Name.

The name of the funeral establishment to which a widow, widower or estate license pertains shall remain the name of the establishment as licensed immediately prior to the death of the licensee.

§ 13.159. Location.

The widow, widower or estate licensee shall continue the activities of the funeral establishment at the same location where the deceased funeral director had been licensed to practice, except that the Board may permit relocation of the establishment upon a showing of a need for the relocation.

§ 13.160. [Reserved].

§ 13.161. Temporary widow/widower or estate supervisor.

~~[(a) At the time of the death of the licensee, the Board may permit the widow, widower or estate to operate the establishment of the deceased with a temporary supervisor for a period not to exceed 6 months. The Board shall be notified of the name of the temporary supervisor, who shall be required to file a statement under oath of his willingness to act in that capacity and who shall be required to appear before the Board with the widow, widower or legal representative of the estate. The temporary supervisor may continue his own business during this 6-month period.]~~

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~~(b) In the event of termination of the permanent supervisor through death, resignation, retirement, and the like, the Board will grant approval of a temporary supervisor for 30 days. Upon written request, and for good cause, the Board may grant an additional 30-day extension to employ the services of a permanent supervisor.~~

In lieu of an application for supervisor under § 13.166 (permanent supervisor), a widow, widower or estate may proceed for initial licensure under § 13.167 (temporary supervisor).

§ 13.162. [Reserved].

§ 13.163. Classification of widow's, widower's and estate license.

Holders of widow's, widower's or estate licenses are not considered to be licensed funeral directors under the laws of the Commonwealth.

§§ 13.164 – 13.165. [Reserved].

SUPERVISOR

§ 13.166. Permanent Supervisor.

(a) In order to register a supervisor for a funeral establishment, the funeral entity shall apply to the Board for approval of a supervisor on a form furnished by the Board, together with the required fee. The Board will approve the application unless the supervisor does not hold a current unrestricted, non-probationary license as a funeral director.

(b) A funeral entity that is required to have a supervisor may not engage in the profession of funeral directing at that establishment unless it has a supervisor registered with the Board, except as provided in § 13.167 (temporary supervisor).

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(c) A supervisor shall not act as such for more than one funeral establishment.

Approval of an application for supervisor shall immediately cause any other license or registration held by that licensed funeral director to be transferred to the funeral establishment on whose behalf the supervisor has applied.

(d) A supervisor shall not operate a sole proprietorship or act as a partner in a partnership. This provision shall not preclude a sole proprietor who has appointed a licensed funeral director as supervisor at the sole proprietor's principal location from acting as supervisor at a branch location. Nor shall this provision preclude a partner from acting as supervisor at the principal or branch location of the partnership.

(e) A supervisor may do embalming and funeral directing for other establishments on a part-time basis, if the supervisor's outside employment does not conflict with duties and obligations to the establishment the supervisor is supervising.

(f) The supervisor shall assure that the funeral entity and its agents and employees acting within the scope of agency or employment comply with the act and this chapter. The supervisor is professionally responsible for such compliance regardless of the supervisor's involvement with those agents or employees or knowledge of the actions of those agents or employees.

§ 13.167. Temporary supervisor.

(a) In the event of the death, incapacity or resignation of the supervisor, a funeral entity that is required to have a supervisor may operate for up to six months following approval by the Board of an application for a temporary supervisor. Said application shall be made on a form furnished by the Board and filed within 30 days of the death, incapacity

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or resignation of the supervisor. The application may be filed via facsimile, mail or personal delivery.

(b) A temporary supervisor, unless required by the Board for good cause, shall not be required to cease any other practice as funeral director as a condition of acting as temporary supervisor.

(c) Once an application for supervisor has been filed with the Board, a funeral entity may operate under the supervision of the licensed funeral director named in the application until such time as the Board has rejected the application. Prior to the registration of a supervisor or temporary supervisor, a funeral entity may operate for up to 30 days following the death, incapacity or resignation of the supervisor, so long as all activities are at the direction of a licensed funeral director.

PREPARATION ROOM

§ 13.171. General requirement.

Each funeral establishment wherein a licensed funeral director practices shall possess at least one room for the purpose of embalming and caring for human remains and for no other purpose other than preparation that may be required by certain religious sects by certified members of that religious sect. The room shall meet the standards prescribed in § 13.174 (relating to facilities and equipment required).

§ 13.172. Place of preparation of all human remains.

(a) Human remains, whether entrusted to the funeral establishment by friends, next of kin or public authorities, shall be completely prepared in the preparation room of an approved establishment.

(b) The only exception to subsection (a) shall exist in the case of a preautopsy embalming performed in cooperation with a licensed physician for the sole purpose of a pathology examination in a place approved by the Board.

§ 13.173. Approval by the Board.

Preparation rooms of funeral establishments shall be approved by the Board. Approval

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shall be requested by the licensed funeral director. A licensed funeral director, resident intern or student trainee may not embalm or scientifically prepare human remains in a room not approved by the Board. This section does not prohibit the preparation of human remains as required by other laws of the Commonwealth or the United States.

§ 13.174. Facilities and equipment required.

The preparation room shall be constructed solely for the purpose of scientifically preparing human remains and shall contain the following facilities and equipment for the purpose of preventing disease and properly disposing of waste material arising out of the embalming process:

- (1) A sink with running water and sewerage connections and possessing a 2-inch capacity drain pipe.
- (2) A metal or porcelain covered operating or embalming table.
- (3) A metal cabinet or metal or glass shelves or a material impervious to water and stain.
- (4) A waste container with cover.
- (5) A first aid kit placed in a conspicuous place.
- (6) Surgical instruments and apparatus for the preparation of embalming of a body. Aspirator shall be a nonbackflow type or have a nonbackflow valve in the line.
- (7) Walls which are airtight and covered in their entirety by tile, plaster, composition board or similar material. With the exception of tile, all of those materials shall be finished with enamel or some other smooth, hard, waterproof material.
- (8) Airtight ceiling.
- (9) A floor which shall be entirely of concrete with glazed surface or tile or wood flooring covered with linoleum or material of similar composition so as to be impervious to water.
- (10) Outside ventilation which may be provided by screened windows or transoms or, in lieu thereof, by an 8-inch pipe leading to the exterior of the building and otherwise constructed so as to conform to the highest health standards.
- (11) Solid doors which are painted or enameled and windows which are screened.
- (12) Sterilizer, chemical or otherwise.
- (13) Flushing facilities to flush injurious corrosive materials from the eyes or body.
 - (i) The facilities, which shall be accessible, operable, and near the work area, are to be either:
 - (A) An eye bubbler or eye shower, or both, available from safety equipment suppliers.
 - (B) A 4-foot length of 3/4-inch hose attached to simple quick opening valve.

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- (ii) Clean cold water shall be available for either of the facilities listed in subparagraph (i) and may not exceed 25 pounds pressure.
- (iii) Portable eye washers are permitted if of a type approved by OSHA.
- (14) Protective wearing apparel as follows:
 - (i) Rubber gloves or other type impervious to the chemicals being handled.
 - (ii) Goggles.
 - (iii) Suitable clothing or apron, rubber or other material impervious to the chemicals being handled.

§§ 13.175 – 13.176. [Reserved].

HEALTH LAWS AND REGULATIONS

§ 13.181. General knowledge.

A funeral director is responsible for the knowledge of and compliance with State and local health laws and regulations in addition to the act, this chapter and current Occupational Safety and Hazardous Administration regulations.

§ 13.182. Sanitation.

Areas within a funeral establishment devoted to the conduct of a funeral service shall be maintained in a proper and sanitary manner. This shall include the proper disposal of waste material in a sanitary manner at the completion of each embalming operation. It shall be the duty of the funeral director to regularly inspect his establishment to insure continued sanitary conditions.

§ 13.183. Food and beverages.

A food may not be served to the public in any part of a funeral establishment. Nonalcoholic beverages may be served in an area approved by the Board. A funeral director or employe shall take the proper steps for personal sanitation before serving or dispensing a permitted beverage to the public.

§ 13.184. Prompt disposal of a deceased body.

A funeral director shall promptly prepare and bury bodies which are entrusted to his funeral establishment for that purpose and may not allow the retention of a dead human body at his establishment or elsewhere for a total of more than **[40]** days without first obtaining special permission from the Board. This section does not prohibit the transfer of a deceased body to a receiving vault located in a cemetery. In such case, the body shall be retained in accordance with 28 Pa. Code § 1.22 (relating to structures for the dead).

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§ 13.185. Establishments—approval by the Board.

Funeral establishments, whether newly built or newly owned, shall receive Board inspection and Board approval before commencing operation. Before the Board will inspect and approve the establishment, the funeral director shall submit an approval by the Department of Labor and Industry or furnish a copy of a local certificate of occupancy.

§ 13.186. Use of preparation room.

The preparation room may not be used for a purpose other than the scientific preparation and embalming of human remains. Equipment or supplies other than those used in the scientific preparation or embalming of human remains may not be stored in the preparation room. Supplies and equipment indigenous to the preparation of a scientific religious sect may be stored in the preparation room so that bodies may be prepared in consort with the religious belief of families served.

§ 13.187. Preparation or embalming of body.

A person other than a currently licensed funeral director, or a registered resident intern under supervision, may not prepare or embalm the body of a deceased person, except as set forth in section 13 of the act (63 P.S. § 479.13). Other persons present in the preparation room during the preparation or embalming, or both, of the body shall be authorized members of the funeral home staff, or persons authorized by law, the funeral director or the family of the decedent.

§§ 13.188 – 13.190. [Reserved].

ADVERTISING

§ 13.191. General rule.

(a) A funeral director may not make or cause to be made ~~an inaccurate~~ any false, misleading or deceptive statement, representation, guaranty, warranty, testimonial or endorsement through advertising or promotional medium.

(b) For purposes of this subchapter, a funeral director shall be deemed to be engaged in advertising whenever the funeral director, directly or indirectly, causes to be placed before the public information concerning the funeral director's profession. This includes publication, dissemination, circulation or placing before the public in any way all forms of advertisement.

(c) All advertising must contain the name of the funeral entity as licensed by the Board.

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§ 13.192. [Reserved].

§ 13.193. Advertising media to include licensed individual.

(a) In order that the public knows the name of a licensed person who will serve them, an establishment ~~which is maintained under a pre-1935 corporation, restricted business corporation, widow, widower or estate license shall indicate the name of the permanent supervisor in advertising media.~~ that is required by law to have a supervisor shall include in all advertisements the name of the supervisor together with the title “supervisor.” The title may be omitted in favor of the designation “FD” or other term denoting licensure as a funeral director where the supervisor is the only individual to be named in the advertisement.

(b) The requirement of this section for indication of the supervisor shall apply to any price list and any statement of funeral goods and services, but shall not apply to: (i) pens, pencils, calendars or other de minimis items of minimal size, (ii) white pages telephone book standard listings, and (iii) newspaper or online obituaries and death notices.

§ 13.194. Names.

Unless otherwise indicated in the act or this chapter, individuals whose names are used in advertising shall be living and hold active licenses registered with the Board with that funeral establishment. Names of ~~deceased licensed family members of an establishment~~ licensed funeral directors formerly participating in such establishment or predecessor thereof may be used in advertising media, ~~except in telephone directories,~~ if ~~the~~ notation ~~“deceased,”~~ indicating that the funeral director no longer participates with that establishment is used.

~~Between red brackets~~ = ~~current language~~ in the existing regs. that would be ~~stricken~~
Bold, blue underlined = **new language** that would be **added** to the existing regs.

§ 13.195. Prices.

A funeral director may not authorize or permit a public or private announcement containing prices which give or tend to give the impression that they include services, merchandise or equipment which the funeral director does not intend to or does not supply.

§ 13.196. ~~Advertising formats acceptable to the Board.~~ [Reserved].

~~[The following advertising formats are acceptable to the Board:~~

~~(1) In the case of sole proprietors, a name shall be used only as it appears on the license. The following will serve as examples:~~

~~(i) John J. Jones Funeral Home.~~

~~(ii) Jones Funeral Home, John J. Jones, Funeral Director or F.D.~~

~~(iii) John J. Jones, Funeral Director, owner or John J. Jones, F.D., Owner.~~

~~(2) In the case of partnerships, the name of the partnership will appear only as indicated on the partnership license, and the individual names shall appear only as indicated on the individual license. The following will serve as examples:~~

~~(i) Jones & Smith Funeral Home, John J. Jones and William W. Smith, Funeral Directors or F.D.s or Owners.~~

~~(ii) John J. Jones and William W. Smith Funeral Home.~~

~~(3) In the case of a widow, widower or estate licensee, the name of the deceased licensee as it was registered with the Board shall appear on the format along with the current licensed supervisor. If the widow, widower or estate licensee is involved in a partnership, the name of the supervisor is not required to be designated if the supervisor is the surviving partner.~~

~~(4) In the case of a pre-1935 corporation, the name of the corporation as it is registered with the Board shall appear on the format along with the current licensed supervisor. The following will serve as examples:~~

~~(i) John J. Jones Funeral Home, Inc. John J. Jones, Supervisor.~~

~~(ii) Jones Funeral Home, Inc. William W. Smith, Supervisor.~~

~~(iii) Jones & Smith, Inc. William W. Smith, Supervisor.~~

~~(iv) Midtown Funeral Service, Inc. John J. Jones, Supervisor.~~

~~(5) In the case of professional or restricted business corporations, the name of the corporation as it is registered with the Board and the name of the supervisor, if applicable, shall appear.~~

§§ 13.197 – 13.200. [Reserved].

~~[Between red brackets]~~ = ~~[current language]~~ in the existing regs. that would be ~~[stricken]~~
Bold, blue underlined = **new language** that would be **added** to the existing regs.

STANDARDS OF PRACTICE AND CONDUCT

§ 13.201. Professional responsibilities.

The responsibilities and duties of licensed funeral directors in connection with a funeral, include the following:

- (1) Providing full and factual representation concerning aspects of the services rendered or the funeral furnishings provided.
- (2) Counseling the family in the selection of services and furnishings taking into consideration both the wishes of the family and their financial limitations.
- (3) Maintaining confidentiality of information received during the rendering of service to a family.
- (4) Acquainting oneself with the religious practices or customs of families the funeral director serves and adjusting services to conform with their belief.
- (5) Releasing the remains to the funeral director chosen by the family, if any, in the most expeditious manner if called upon to remove the remains from an accident or comparable situation, before the family has been contacted.
- (6) Providing proper disposal of human remains in accordance with the following:
 - (i) Human remains held 24 hours beyond death shall be embalmed or sealed in a container that will not allow fumes or odors to escape or kept under refrigeration, if this does not conflict with a religious belief or medical examination.
 - (ii) Human remains kept under refrigeration over 24 hours beyond death shall be maintained at a temperature level between 35° and 40°F. The remains shall be buried, cremated or entombed within 5 hours following removal from refrigeration.
 - (iii) Under normal circumstances, the public should not view an unembalmed body which has been kept in refrigeration longer than 36 hours.
- (7) Obtaining and maintaining written authorization from the family of a deceased who is to be cremated.

§ 13.202. Unprofessional conduct.

Unprofessional conduct includes the following:

- (1) Aiding or assisting a funeral director whose license has been suspended or revoked or an unlicensed person to engage in an act or practice for which a license is required.
- (2) Demonstrating disrespect toward or mutilating the remains of the deceased person.
- (3) Making a comment or public announcement in defamation of another funeral director. This does not prohibit one licensee from testifying against another licensee or from filing a bona fide complaint with the Board.

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(4) Participating in the establishment of a business or professional relationship with or in the operation of a burial association, mutual assessment association, burial certificate plan, insurance company, lodge company, society or religious or other organization whose plan or scheme of organization or operation limits or interferes with the rights of a person entitled by law to dispose of the body of a deceased member, policyholder or certificate holder.

(5) Paying or extending an offer to pay or give to a person, agency or group a commission or a valuable consideration for the solicitation or procurement of clientele.

(6) Offering, directly or indirectly, or giving money or an item of value to an employee of the Commonwealth to directly or indirectly influence the administration or enforcement of the act or this chapter, except for the payment of fees required by the act and this chapter.

(7) Failing to notify the Bureau, in writing, of a demand, solicitation or attempted extortion of money or an item of value, by or on behalf of an employee assigned to the administrative jurisdiction of the Commissioner, and failing to furnish additional information reasonably requested.

(8) Attempting to influence the judgment of the family in the selection of a funeral director, funeral arrangements or funeral merchandise when a family group is divided on these issues.

(9) Aiding or abetting another licensed funeral director to violate the act or this chapter.

(10) Failure to fulfill the professional responsibilities of a funeral director as described in the act or this chapter.

(11) Furnishing embalming, other services or merchandise without having obtained written permission from a family member or other person authorized by law to make funeral arrangements for the deceased. Oral permission to embalm, followed by a confirmatory e-mail, fax, telex, telegram, mailgram or other written confirmation will be acceptable.

(12) Renting or exchanging funeral establishments by one or more funeral directors for the purpose of creating a secondary location for funeral services. Renting of an establishment for funeral services by a funeral director over 10 times a year shall be evidence of attempting to create a secondary location.

(13) Retaining funds intended to pay for funeral goods and services when the funeral director and funeral entity have not provided any funeral goods and services or when the amount of funds retained is in excess of the value of funeral goods and services actually provided by the funeral director or funeral entity, as set forth on the general price list in effect at the time the funeral goods and services are actually provided. This paragraph does not apply to funds received under an agreement entered into by the funeral director, or the funeral entity employing that funeral director, while the decedent was still living to provide funeral goods or services on behalf of the decedent when needed.

(14) Performing funeral services on behalf of a funeral entity that the funeral director knew, or should have known, was not in compliance with section 8 of the act (63 P.S. § 479.8), regarding conduct of business.

(15) Refusing to release remains until consideration, whether earned or not, has been paid.

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(16) Failing to comply with the regulations of the Federal Trade Commission in 16 CFR Part 453 (relating to funeral industry practices).

§ 13.203. [Reserved].

§ 13.204. Written agreement.

(a) A written agreement form, either for at need or preneed, statement of funeral goods and services approved by the Board, containing the name and address of the funeral director, the date the arrangements were made, the name of the deceased and the date of death, a specific listing of professional services, merchandise, facilities and equipment to be supplied by the funeral director for the preparation and burial, cremation or other disposition of the deceased as outlined in subsection (c); an itemized statement of cash advances and expenditures as explained in subsection (d); and the total cost, signed by the funeral director, shall be given to the family representative or agency official arranging for the funeral at the time of arrangements which must be prior to the disposition of the deceased. The forms or statements used by licensees in this Commonwealth must conform with the requirements imposed by the Federal Trade Commission under 16 CFR Part 453 (relating to funeral industry practices).

(b) A specific listing of professional services, merchandise, facilities and equipment to be supplied by the funeral director for the preparation and burial, cremation or other disposition of the deceased as specified in subsection (a) shall be completely spelled out as to what is included. Examples are as follows:

(1) Professional services include, if provided, funeral counseling, available on a 24-hour basis; arrangements for funerals and interments; preparation and local removal; obituary information to newspapers; filing of necessary forms; handling of flowers; direction of the funeral service; and presence at cemetery for interment services.

(2) Merchandise includes, if provided, a casket, including space for a description; an outer case or vault, including space for a description; memorial cards, prayer cards and acknowledgement cards, indicating the amount; candles; a register book; temporary grave marker; and pallbearer gloves.

(3) Facilities and equipment shall include, if provided, repose rooms, chapel facilities, lounges, reception areas, parking, drape decoration or fern decoration, necessary religious equipment such as prayer rails and mass card holder, hearse (local), vehicle for removal (local), family car, flower transportation vehicle, clergy vehicle and pallbearer vehicle, if applicable.

(c) The written agreement form shall include a specific listing of cash advances paid for by the funeral director as a convenience to the family when the advances are dollar-for-dollar exchanges and not a part of the normal services and merchandise rendered by the licensee.

(d) The written agreement form must also include a specific listing of additional items of service and merchandise not covered by subsection (c) and differing from cash advances as explained in subsection (d).

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(e) Interest on delinquent accounts, if charged, shall be listed and conform with State and Federal laws and regulations.

(f) A copy of the written agreement, signed by the family representative or agency official as well as the funeral director, shall be retained by the funeral director along with the records of the transaction ~~[for 6 years]~~ as required by § 13.204a (relating to maintenance and production of business records).

(g) If a family member or representative is located where a signature on an agreement is impossible, a fax, a telex, a telegram or a mailgram authorizing the procedure or arrangements will be acceptable. For the purpose of this subsection, the fax, telex, telegram or mailgram is to be used for “ship in” or “ship out” accommodations.

(h) The Board will not approve a form statement of funeral goods and services that does not comply with the act or this chapter, or the enforcement of any term of which would result in the violation of the act or this chapter.

§ 13.204a. Maintenance and production of business records.

(a) A funeral entity and its funeral supervisor shall maintain at the funeral establishment the following business records of the funeral entity:

(1) All documents subject to § 13.117 (relating to business forms) for at least 6 years after most recent use.

(2) All records required by § 13.204 (relating to written agreement) for at least 6 years after death of client or execution of documents, whichever is later.

(3) All records required by the Federal Occupational Safety and Health Administration and subject to § 13.181 (relating to general knowledge) for at least 6 years.

(4) All records of waste disposal under § 13.182 (relating to sanitation) for at least 6 years after disposal.

(5) Cremation authorization as required by § 13.201(7) for at least 6 years after cremation or authorization, whichever is later.

(6) Embalming or other service authorization as required by § 13.201(11) for

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at least 6 years after service or authorization, whichever is later.

(7) All records required by the Federal Trade Commission in 16 CFR Part 453 (relating to funeral industry practice) or otherwise subject to § 13.202(16) for at least 6 years.

(8) All records required by § 13.215 (relating to supervision of funeral service and interment) for at least 6 years after interment.

(9) All records required by § 13.224 (relating to funding and reporting of prepaid burial contracts) for at least 6 years after death of client or execution of documents, whichever is later.

(10) All reports under § 13.302 (relating to suspected child abuse – mandated reporting requirements) for at least 6 years after making the report.

(b) A funeral entity and its funeral supervisor who have not maintained records in accordance with subsection (a) will be rebuttably presumed not to have ever created or obtained the record if otherwise required to be created or obtained by the act or this chapter.

(c) When doing so would not unnecessarily interfere with an ongoing funeral service or arrangements conference and after a reasonable time to permit an owner, supervisor or other management-level employee of the funeral entity an opportunity to respond, a funeral entity and its funeral supervisor shall produce upon the request of a mortuary inspector or other agent of the Board the business records identified in subsection (a). The records shall be provided within a reasonable time under the circumstances, not to exceed 2 business days unless otherwise approved by the Board or its agent.

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§ 13.205. Tentative agreements.

Under section 13(d) of the act (63 P.S. § 479.13(d)), tentative arrangements for funerals may be made by unlicensed funeral home staff persons in the temporary absence of the funeral director in charge. A licensed funeral director shall ratify the tentative arrangements within 48 hours. Tentative arrangements means contacting a licensed funeral director for the embalming operation, obtaining and placing obituary notices setting a service time with the clergyman and cemetery official and making an appointment for the family with a licensed funeral director for the selection of merchandise. Final arrangements shall be handled by a licensed funeral director. Failure to follow this section will be considered unprofessional conduct on the part of the funeral director in charge.

§§ 13.206 – 13.211. [Reserved].

§ 13.212. Cremation.

A dead human body may be cremated at any time after 24 hours beyond the time of death. This does not prevent taking the remains to the crematory prior to 24 hours as long as written explicit instructions are given to the crematory that cremation absolutely cannot be done before 24 hours. A signed receipt shall be the possession of the funeral director to that effect.

§ 13.213. Means of transportation.

Transportation of the deceased by a funeral director or the director's agent shall be only in or on a stretcher or container specifically designed for containment of human remains. A body shall be transported in a horizontal, face-up position and covered so that it is shielded from public view.

§ 13.214. Commercial transportation of bodies.

Whenever public transportation or a common carrier is employed in the transfer of a deceased person, the estimated cost of the transportation shall be explained to the family or legal representative of the deceased person prior to shipping.

§ 13.215. Supervision of funeral service and interment.

It shall be the responsibility of the funeral director in charge to personally supervise the funeral service at the cemetery and to have a representative present at the interment of the deceased. The records of the funeral director shall indicate who his representative was at the interment.

§§ 13.216 – 13.223. [Reserved].

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PREPAID BURIAL CONTRACTS

§ 13.224. Funding and reporting of prepaid burial contracts.

(a) A funeral director shall deposit in escrow or transfer in trust to a banking institution in this Commonwealth, the entire amount of monies received by the funeral director under a prepaid contract for funeral services or merchandise, including additional service fees or arrangement fees.

(b) In regard to prepaid contracts entered into by funeral directors after November 4, 1989, a funeral director shall file a report with the Board within 90 days containing the information specified in subsection (c) with respect to each prepaid contract for funeral services and merchandise. Forms for the reports, including the report required under subsection (d), will be provided by the Board.

(c) A funeral director shall file a report with the Board on a form provided by the Board, certifying as true and correct, the following information with respect to each prepaid contract for funeral services and merchandise entered into:

(1) The date of the prepaid contract and the name and address of the purchasers under the contract.

(2) The name and address of the banking institution in which 100% of the money received by the funeral director on account of the contract has been deposited.

(3) The account number, account registration title—name and persons for whom the account is established—and the date the account was established.

(4) In installment contracts, if the entire amount of the contract has not been paid, the report must expressly indicate the fact that an installment contract is involved, and the total amount of installments received by the funeral director and deposited in escrow or in trust.

(d) A funeral director shall report within 30 days all fulfilled prepaid contracts, including the following:

(1) The name of the deceased.

(2) The date of the death.

(3) The account number.

(4) The name of the banking institution.

(e) The report required in subsection (c) is not a public record under the act of June 21, 1957 (P. L. 390, No. 212) (65 P.S. §§ 66.1—66.4), known as the Right-to-Know Law. The report will be available to the following:

(1) Parties privy to the contract.

(2) Heirs of the deceased.

(3) Executors or administrators of the estate of the deceased.

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- (4) Courts of competent jurisdiction.
- (5) The Board.

(f) Form prepaid burial contracts or form preneed contracts to be used by a funeral director shall be reviewed and approved by the Board and should reflect whether or not an additional service fee or arrangement fee is charged. Form prepaid burial contracts or form preneed contracts used by a funeral director may not incorporate a contract for funeral merchandise entered into by a person or entity other than a funeral director. The Board will not approve a form prepaid burial contract or preneed contract that does not comply with the act or this chapter, or the enforcement of any term of which would result in the violation of the act or this chapter.

§ 13.225. Affidavit for prepaid burial accounts.

A licensed funeral director shall, within 30 days of receiving notification from the Board, file with the Board, an affidavit that he has complied or will comply within a reasonable time, with section 13(c) of the act (63 P.S. § 479.13(c)) and has deposited or will deposit in escrow or trust in a banking institution in this Commonwealth, 100% of monies received by him for preneed funeral arrangements or incidentals. Failure to file will result in disciplinary action by the Board.

§ 13.226. Nature and description of escrow or trust accounts for prepaid burial contracts.

(a) Funds received for prepaid burial contracts shall be placed in an escrow or trust fund account which shall be separate and distinct from the business and personal accounts of the funeral director.

(b) If funds received by a funeral director for preneed burial contracts are deposited in a banking account which bears interest, or are invested by the trustee bank and produce earnings, the interest or earnings shall be retained in the account with the principal and shall be held, accounted for and transferred in the same manner as the principal amount, to assure delivery of the same quality of service and merchandise for which the contract was made.

(c) In the event of a sale or transfer of the business of a funeral director, prepaid burial contracts and prepaid burial accounts shall immediately be transferred to the control of the licensee who will assume responsibility for completion of the prepaid burial contracts. The licensee-transferee shall notify the Board in writing of the licensee's willingness to accept responsibility for completion of the prepaid burial contracts.

LICENSE RENEWAL

§ 13.231. Biennial registration; unregistered status and inactive status; failure to renew.

(a) A licensee shall ~~register each biennial period to retain the right to practice. Initial registration shall automatically occur when a license is issued. Registration for a biennial period~~

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~~expires on the first day of February of every even numbered year. Unless excused by the Board for good cause under section 10(b)(4) of the act (63 P.S. § 479.10(b)(4)), the Board will not grant an application for renewal of a funeral director license unless the licensee has certified that the~~
renew an active license under the act by satisfying the following requirements during the renewal period as defined in subsection (c) of this section:

(1) Submit a complete application for renewal of license on forms provided by the Board.

(2) Pay the required renewal fee.

(3) Certify either that:

(i) The licensee has completed the amount of continuing education required by § 13.401 (relating to credit hour requirements), including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 13.308(b) (relating to child abuse recognition and reporting—mandatory training requirement); or

(ii) The Board has excused the licensee for good cause under section 10(b)(4) of the act (63 P.S. § 479.10(b)(4)) from the continuing education requirement.

(4) Verify that the contents of the application for renewal of license and the certification of completion of continuing education have been made subject to the provisions of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) and 18 Pa.C.S. § 4911 (relating to tampering with public records or information).

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(a.1) A funeral director’s license will not be renewed unless the license of the funeral establishment with which that license will be associated has been renewed or is being renewed contemporaneously. A funeral supervisor license will not be renewed unless the funeral director’s individual funeral director license has been renewed or is being renewed contemporaneously.

(b) ~~Applications for biennial registration shall be made on forms provided by the Board. The form shall be received by the Board with the required registration fee by the expiration of the previous biennial registration period.~~ The right to practice funeral directing expires upon the first day of February of every even-numbered year unless a licensee files with the Board an application for renewal in a form prescribed by the Board that satisfies the requirements of subsection (a) of this section.

(c) ~~Biennial registration forms and other forms and literature distributed by the Board will be mailed to the licensee at the last mailing address on file with the Board. If a licensee changes the mailing address, the licensee shall notify the Board within 15 days thereafter. Failure of the Board to send or of the licensee to receive a biennial registration application does not relieve the licensee of the biennial registration responsibility.~~ No later than the first day of November of each odd-numbered year, the Board will publish an electronic application for renewal of license on its website and will mail a notice of the expiration of the renewal period to each licensee at the address of record on file with the Board as defined by subsection (f) of this section. The renewal period for a license to practice funeral directing under the act commences on the first day of November of each odd-numbered year and ends on the first day of February of each even-numbered year.

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(d) A licensee ~~whose licensure status has lapsed by failing to register biennially with the Board may apply to the Board for reactivation of licensure status~~ may reactivate an expired license by satisfying the ~~requirements of paragraph~~ following conditions:

(1) Submit a complete application for reactivation of license on forms ~~prescribed~~ provided by the Board. ~~An application for reactivation of an inactive or lapsed funeral director license must also include the documentation required by § 13.402 (relating to reporting completion of continuing education) for the immediately preceding biennium, which may be completed during the current biennium.~~

~~(1) A licensee applying for reactivation of licensure status is required to pay the current registration fee and submit a notarized affidavit setting forth the period of time in which the licensee did not practice in this Commonwealth.~~

(2) Pay the required fee for renewal of a license as prescribed in §13.12 of this chapter, and, if applicable, the fee for reactivation of the license as prescribed by clause (4)(ii)(B) of this section.

~~(2) A licensee who seeks to reactivate his licensure status will not be assessed a late renewal fee for the preceding biennial registration periods in which the licensee did not engage in practice in this Commonwealth. A licensee whose licensure status has lapsed due to the failure to register biennially with the Board, is prohibited from practicing as a funeral director in this Commonwealth unless the licensure status is reactivated. If a licensee engages in practice in this Commonwealth during a period in which the licensee's registration is not renewed, the licensee is required to pay a late fee of \$5 for each month or part of a month beyond the date specified for renewal as provided in section 225 of the~~

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~~Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225), in addition to the prescribed biennial renewal fee. The payment of a late fee does not preclude the Board from taking disciplinary action against a licensee for practicing as a funeral director in this Commonwealth without a current license.]~~

(3) Certify either that:

(i) The licensee has completed the continuing education required by §13.401 of this chapter (relating to credit hour requirements) for the preceding biennial license period; or

(ii) ~~[Unless The Board has~~ excused ~~[by the Board]~~ the licensee for good cause under section 10(b)(4) of the act **~~(63 P.S. §479.10(b)(4))~~**, ~~the Board will not reactivate any funeral director license until the required continuing education for the preceding biennium has been successfully completed]~~ **from the continuing education requirement.**

(4) Certify that:

(i) The licensee has not engaged in the practice of funeral directing while the license was expired; or

(ii) The licensee:

(A) Has engaged in the active practice of funeral directing while the license was expired.

(B) Pays a fee of \$5 for each month or part of each month that the licensee engaged in the practice of funeral directing while the license was expired as prescribed in section 225 of the Bureau of Professional and

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Occupational Affairs Fee Act (63 P.S. §1401-225).

(5) Verify that the contents of the application for reactivation of license and the certification of completion of continuing education have been made subject to the provisions of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities) and 18 Pa.C.S. § 4911 (relating to tampering with public records or information).

(d.1) A funeral director's license will not be reactivated unless the license of the funeral establishment with which that license will be associated is current or is being reactivated contemporaneously. A funeral supervisor license will not be reactivated unless the funeral director's individual funeral director license is current or is being reactivated contemporaneously.

(e) A licensee's mailing address of record on file with the Board is:

(1) The street address for the location approved by the Board for a funeral establishment holding a license under section 8 of the act (63 P.S. §479.8) or section 9 of the act (63 P.S. §479.9).

(2) The address of the funeral director's place of practice identified by a funeral director in the most recent application for initial issuance, renewal or reactivation of a funeral director license filed with the Board, or the place of practice identified in the most recent request for change of address of a funeral director license, whichever is later.

(f) No later than 15 days following a change in a licensee's place of practice approved by the Board a licensee shall notify the Board in writing of a change of address on a form provided by the Board.

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(g) An application for initial issuance, renewal, or reactivation of a license under the act, or a notice of change of address is filed with the Board on the date it is received in the Board's office.

§ 13.233. Biennial registration and reactivation of funeral establishment license.

(a) A funeral establishment shall register each biennial period to retain the right to practice. Initial registration shall automatically occur when an establishment license is issued. Registration for a biennial period expires on the first day of February of every even numbered year. The Board will hold processing of establishment license renewals in accordance with the following:

(1) The Board will not renew the funeral establishment license for a widow, widower or estate, restricted business corporation, or professional corporation unless the supervisor's license has been renewed or is being renewed contemporaneously.

(2) The Board will not renew the funeral establishment license for a sole proprietor establishment unless the sole proprietor's funeral director license has been renewed or is being renewed contemporaneously.

(3) The Board will not renew the funeral establishment license for a partnership establishment unless at least one of the partners' funeral director license has been renewed or is being renewed contemporaneously.

(4) The Board will not renew the funeral establishment license for a branch location unless the establishment license for the principal location has been renewed and the branch supervisor's license has been renewed or is being renewed contemporaneously.

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(b) Application for biennial registration shall be made on forms provided by the Board. The form shall be received by the Board with the required registration fee by the expiration of the previous biennial registration period. Failure of the Board to send or of the funeral entity to receive a biennial registration application does not relieve the funeral entity of the biennial registration responsibility.

(c) A funeral entity whose funeral establishment licensure status has lapsed by failing to register biennially with the Board may apply to the Board for reactivation of licensure status by satisfying the requirements of this subsection. A funeral entity applying to reactivate its establishment license shall submit a notarized affidavit setting forth the period of time it did not practice funeral directing in this Commonwealth while its licensure status was lapsed. The funeral entity shall pay the required renewal fee for each prior biennial registration period for which its licensure status was lapsed. The funeral entity will not be assessed a renewal fee for those biennial registration periods during which it did not practice funeral directing in this Commonwealth. Unless its establishment has been inspected under §13.253 (relating to inspections – statement of policy) within the preceding 18 months and passed that inspection, a funeral entity shall also pay the reinspection fee specified in § 13.12 (relating to fees) and pass an inspection prior to reactivation of its establishment license. The funeral establishment license will not be reactivated unless the supervisor’s license or the sole proprietor’s or partner’s funeral director license as appropriate as specified in subsection (a) is current or is being reactivated contemporaneously.

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(d) A funeral entity whose funeral establishment licensure status has lapsed by failing to register biennially with the Board is prohibited from practicing funeral directing in this Commonwealth unless the licensure status is reactivated. A funeral entity that has practiced while its establishment license was lapsed is required to pay a late fee of \$5 for each month or part of a month beyond the date specified for renewal as provided in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225), in addition to any fees charged pursuant to subsection (c). The payment of a late fee does not preclude the Board from taking disciplinary action against a funeral entity for practicing funeral directing in this Commonwealth without a current funeral establishment license.

STATEMENTS OF POLICY

§ 13.251. Funeral supervisors and funeral directors on active duty—statement of policy.

(a) *Background.*

(1) Under §§ 13.1, 13.113, 13.122, 13.144 and 13.155, the professional activities of a funeral establishment operating under an estate or widow license, a pre-1935 business corporation license, a restricted business corporation license and a branch license, shall be conducted under the supervision of a licensed funeral director, in good standing with the Board, who is assigned and registered with the Board as the permanent funeral supervisor of the establishment. The only business structure which does not require the services of a funeral supervisor is a sole proprietorship.

(2) This policy statement announces the procedures which are to be followed by funeral establishments in this Commonwealth in the event of a national emergency which requires rapid mobilization in the armed services on the part of funeral supervisors or funeral directors of sole proprietorships in this Commonwealth.

(b) *Procedure.* The following procedures are to be followed when a supervising funeral director or a funeral director of a sole proprietorship is called to active duty:

(1) Affected funeral establishments should notify the Board in writing within 10 days of receipt of military orders by its acting funeral supervisor, accompanied by a copy of the military orders.

(2) The funeral establishment will have 30 days from the date of receipt of military orders by its acting funeral supervisor to name a “temporary supervisor” who may serve in that capacity until the permanent supervisor/funeral director returns to civilian status. The

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Board shall be notified in writing when the temporary supervisor appointment is made.

(3) Supervising funeral directors or funeral directors of sole proprietorships affected by the events in the Persian Gulf prior to February 2, 1991 shall be afforded the same protections as outlined in paragraphs (4)–(6). Funeral directors already acting as “temporary supervisors” of these establishments shall be responsible for notifying the Board in writing by March 4, 1991 of the names of funeral supervisors or funeral directors already serving in the armed services, together with a statement of his willingness to continue acting in the capacity of temporary supervisor in accordance with this section.

(4) Except as provided in paragraph (5), the permanent supervisor/funeral director called to active duty should be reinstated in the former position within 60 days of military release. The Board shall be informed in writing of the reinstatement.

(5) If the permanent supervisor/funeral director elects not to be reinstated as a funeral supervisor, the affected funeral establishment shall notify the Board of this fact in writing and apply for a “change in supervisor” within the framework of the law and this chapter.

(6) If a biennial renewal of license occurs during a licensee’s term of military service, the affected funeral director’s license may be renewed upon his return to civilian status if written request is made to the Board. Renewal will be without penalty.

§ 13.252. Profession of funeral directing—statement of policy.

(a) Since the enactment of the act, the Board, the Bureau and the Bureau of Enforcement and Investigation have interpreted “profession” as used in section 2(1) of the act (63 P.S. § 479.2(1)) to exclude:

(1) An individual engaged in the performance of the ceremonies, customs, religious rites or religion of any people, denomination or sect as constituting the practice or observance of religion in accordance with Pa. Const. Art. I, § 3 and U.S. Const. amend. I.

(2) A religious denomination or sect, or a body composed of members of a denomination, when the acts of the religious denomination or sect constitute the practice or observance of religion under Pa. Const. Art. I, § 3 and U.S. Const. amend. I.

(3) A committee of a church, meeting, mosque, synagogue, temple or other congregation of religious believers in the handling, transporting, preparing and disposition of deceased human bodies in accordance with the practice or observance of religion under Pa. Const. Art. I, § 3 and U.S. Const. amend. I.

(b) The exclusion of religious practices and observances in subsection (a) from the term “profession” does not extend to a person, whether or not that person is a religious body, denomination or sect, a member of a religious body, denomination or sect, has been ordained as a member of the clergy of a religious body, denomination or sect, or commits the act in connection with a religious practice or observance, who performs any of the following acts:

(1) Advertises as a funeral director.

(2) Holds himself out as a funeral director.

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- (3) Embalms or performs the scientific preparation of human remains.
- (4) Engages in “trade” or “commerce” as defined in section 2 of the Unfair Trade Practices and Consumer Protection Law (73 P.S. § 201-2) when trade or commerce involves either of the following:
 - (i) Funeral services for profit.
 - (ii) Funeral services and funeral merchandise incidental to funeral services for profit.

§ 13.253. Inspections—statement of policy.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Board administrator—An employee of the Bureau with responsibility to administer the business of the Board or another employee assigned to assist this person.

Citation—A notice of a violation beginning disciplinary action issued under section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (63 P.S. § 2205(a)) in accordance with Chapter 43b (relating to Commissioner of Professional and Occupational Affairs).

Closing inspection—An inspection performed for the purpose of determining whether a licensed funeral establishment that has discontinued business, changed location or notified the Board of its intent to discontinue business or change location has complied with the act and this chapter.

Complaint—A document filed with the Professional Compliance Office alleging one or more violations of the act or this chapter.

Follow-up inspection—An inspection relating to a prior inspection in which the funeral establishment was determined to be in noncompliance with the act or this chapter. This inspection is conducted for the purpose of determining whether the noncompliant element of the establishment has been brought into compliance.

Inspection—

- (i) A visual examination, observation or view of a funeral establishment by an agent of the Bureau of Enforcement and Investigation, including an examination, observation or view of any of the following:
 - (A) The buildings, fixtures, equipment, implements and materials of the funeral establishment.
 - (B) Licenses of employees of the funeral establishment.
 - (C) Documents, forms, advertising and other records required by the act, this chapter or the regulations of the Federal Trade Commission in 16 CFR Part 453 (relating to funeral industry practices).
 - (D) Other matters that pertain to initial and continued licensure for the purpose of determining a funeral establishment’s compliance with licensure requirements.

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(ii) The term includes an oral interview or examination of an employee, agent or licensee with a principal place of business at the funeral establishment, or a licensee who assists at the funeral establishment, for the purpose of obtaining information that pertains to the visual examination.

Inspector—An employee under the supervision and direction of the Director of the Bureau of Enforcement and Investigation, regardless of employment classification or title of position assigned by the Office of Administration, who is a licensed funeral director who has been actively engaged in the practice of the profession of funeral directing for at least 10 years.

Investigation—An activity conducted in response to a complaint filed with the Professional Compliance Office regarding an alleged violation of the act or this chapter, or in response to a suspected violation discovered during an inspection, for the purpose of gathering evidence reasonably calculated to determine whether a violation has occurred.

New funeral establishment inspection—An inspection relating to an application for a funeral establishment license.

Routine inspection—An inspection performed for the purpose of determining compliance of a licensed funeral establishment with the provisions of the act, this chapter or 16 CFR Part 453.

(b) *Authority and rationale.*

(1) The profession of funeral directing is a heavily regulated profession.

(2) Section 16(b) of the act (63 P.S. § 479.16(b)) requires the Board to appoint mortuary inspectors.

(3) Under section 16(b) of the act, inspectors are empowered to serve all processes and papers of the Board and have the right of entry into any place, where the business or profession of funeral directing is carried on or advertised as being carried on, for the purpose of inspection and for investigation of complaints filed with the Professional Compliance Office and for other matters as the Board may direct.

(4) The Board finds that the periodic inspection of the premises at which the profession of funeral directing is carried on or advertised as being carried on is necessary to serve several important governmental interests, including:

(i) Ensuring that the public is protected against acts, practices and conditions in the profession of funeral directing that are inimical to public health, safety, welfare and fair consumer transactions.

(ii) Promoting price competition among practitioners of the profession of funeral directing by ensuring that economic advantage is obtained through efficient and sound business practices and not through acts, practices or conditions in the profession of funeral directing that compromise public health, safety, welfare or fair consumer transactions.

(iii) Educating and informing practitioners in the profession of funeral directing of the legal requirements of the profession and of economical and practical

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means of complying with Federal and State law.

(5) The Board finds that it has been the practice of the Bureau of Enforcement and Investigation to regulate the conduct of inspections and investigations by mortuary inspectors within appropriate limitations as to frequency, scope and timing so as not to impose unreasonable burdens upon licensees.

(6) The Board finds that it is in the interest of the public and of the regulated profession to memorialize a policy regarding the conduct of inspections and investigations performed under the act.

(c) *Limitations on inspections.*

(1) *Frequency.* Inspectors will perform inspections within the following ranges of frequency:

(i) *Routine inspection.* Each funeral establishment licensed by the Board will be inspected no more than once every 270 consecutive days and no less than once every 540 consecutive days.

(ii) *New funeral establishment inspection.* A new funeral establishment will be inspected within 30 days of the date of a request by the Board administrator.

(iii) *Follow-up inspection.* An existing funeral establishment, new funeral establishment, funeral establishment in which ownership is being transferred or a closing funeral establishment in which a deficiency was noted or reported will be inspected no sooner than 7 days and no later than 30 days from the date that the deficiency was noted or reported, or within 30 days of a follow-up inspection in which a prior reported deficiency was found to be uncorrected. This standard is directory and not mandatory. This limit may be extended if, in the exercise of the sound discretion of the inspector or the Bureau of Enforcement and Investigation, additional time is warranted or other priorities require more immediate attention.

(2) *Time.* Inspectors will perform routine inspections, new funeral establishment inspections, closing inspections and follow-up inspections only between Monday and Friday during the hours of 8 a.m. and 5 p.m., excluding State holidays.

(3) *Scope.* Inspectors will limit the scope of new funeral establishment inspections, routine inspections, follow-up inspections and closing inspections to information required for the completion of forms designed by the Bureau of Enforcement and Investigation and ratified by the Board. As of the date of the adoption of this statement of policy, the form that is in use is an electronic form.

(i) During the course of an inspection, an inspector is not authorized to demand production of documents, or to demand entrance to a part of the premises of a funeral establishment, that are not within the scope of the subject matter of approved inspection report forms.

(ii) During the course of a follow-up inspection, an inspector will limit the scope of the inspection to a review of the previously reported deficiency.

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(4) *Notice of inspection.*

(i) *General rule.* Routine inspections and follow-up inspections will be conducted without prior notice to the funeral establishment, its owners, officers, employees or funeral directors practicing at the funeral establishment. New funeral establishment inspections and closing inspections will be scheduled in advance.

(ii) *Exceptions.* Within the sound discretion of the Director of the Bureau of Enforcement and Investigation, an inspector may schedule an appointment to conduct a routine inspection or follow up inspection in the following circumstances:

(A) The funeral establishment is geographically remote or isolated and an unscheduled inspection would consume an unreasonable amount of time if a person was not present upon the arrival of the inspector.

(B) The funeral establishment is not open Monday through Friday from 8 a.m. to 5 p.m.

(5) *Amendments, modifications and changes to scope of inspections.* The Board will ratify amendments, modifications or changes to the scope of inspection forms only if amendments, modifications or changes include subjects that are within the Board's jurisdiction as defined by statutes enacted by the General Assembly and interpreted by judicial decision.

(6) *Observation of actual or suspected violations in the conduct of inspections.*

(i) *General rule.* An inspector is authorized to issue a citation, or refer for further investigation or formal disciplinary action, observed actual or suspected violation of the act or this chapter which is within the scope of the inspection report forms ratified by the Board.

(ii) *Evidence in plain view of violations not within the scope of inspection report forms.*

(A) *Observed actual violations.* If, during the course of an inspection, an inspector observes evidence in plain view of an actual violation of the act, this chapter, 16 CFR Part 453 or other law and the violation is not within the scope of the inspection report forms ratified by the Board, the inspector is authorized to issue a citation or report the observed violation for investigation or formal disciplinary action.

(B) *Observed suspected violations.* If, during the course of an inspection, an inspector observes evidence in plain view of a suspected violation of the act, this chapter, 16 CFR Part 453 or other law and the violation is not within the scope of the inspection report forms ratified by the Board, the inspector is authorized to report the suspected violation for further investigation or formal disciplinary action.

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CHILD ABUSE REPORTING REQUIREMENTS

§ 13.301. Definitions relating to child abuse reporting requirements.

The following words and terms, when used in this section and §§ 13.302—13.309 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

Bodily injury—Impairment of physical condition or substantial pain.

Child—An individual under 18 years of age.

Child abuse—Intentionally, knowingly or recklessly doing any of the following:

- (i) Causing bodily injury to a child through any recent act or failure to act.
- (ii) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- (iii) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- (iv) Causing sexual abuse or exploitation of a child through any act or failure to act.
- (v) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- (vi) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- (vii) Causing serious physical neglect of a child.
- (viii) Engaging in any of the following recent acts:
 - (A) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
 - (B) Unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement.
 - (C) Forcefully shaking a child under 1 year of age.
 - (D) Forcefully slapping or otherwise striking a child under 1 year of age.
 - (E) Interfering with the breathing of a child.
 - (F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
 - (G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
 - (I) is required to register as a Tier II or Tier III sexual offender

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under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), when the victim of the sexual offense was under 18 years of age when the crime was committed;

(II) has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors;

(III) has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions); or

(IV) has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(ix) Causing the death of the child through any act or failure to act.

(x) Engaging a child in a severe form of trafficking in persons or sex trafficking as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

ChildLine—An organizational unit of the Department of Human Services, which operates a 24-hour a day Statewide toll-free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

Mandated reporter—A person who is required under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to make a report of suspected child abuse. For purposes of this chapter, the term includes licensed funeral directors.

Parent—A biological parent, adoptive parent or legal guardian.

Perpetrator—An individual who has committed child abuse as defined in this section. The following apply:

(i) This term includes only the following:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) An individual 14 years of age or older who is a person responsible for the child's welfare or who has direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.

(F) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption of the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under

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section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

- (A) A parent of the child.
- (B) A spouse or former spouse of the child's parent.
- (C) A paramour or former paramour of the child's parent.
- (D) A person responsible for the child's welfare who is 18 years of age or older.
- (E) An individual 18 years of age or older who resides in the same home as the child.

Person responsible for the child's welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

Program, activity or service—Any of the following in which children participate and which is sponsored by a school or a public or private organization:

- (i) A youth camp or program.
- (ii) A recreational camp or program.
- (iii) A sports or athletic program.
- (iv) A community or social outreach program.
- (v) An enrichment or educational program.
- (vi) A troop, club or similar organization.

Recent act or failure to act—An act or failure to act committed within 2 years of the date of the report to the Department of Human Services or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

- (i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.
- (ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious physical neglect—Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

- (i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

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(ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

Sexual abuse or exploitation—Any of the following:

(i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes the following:

(A) Looking at sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

(ii) Any of the following offenses committed against a child:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

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(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

§ 13.302. Suspected child abuse—mandated reporting requirements.

(a) *General rule.*

(1) Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), funeral directors are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

(ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) Nothing in this subsection shall require a child to come before the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this subsection shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Whenever a mandated reporter is required to make a report under subsection (a) in the capacity as a member of the staff of a medical, dental or other public or private institution, school, facility or agency, that licensee shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

(c) *Reporting procedure.* A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

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(1) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this paragraph may be submitted electronically.

(2) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service's Child Welfare Information Solution self-service portal at www.compass.state.pa.us/cwis. A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(d) *Written or electronic reports.* A written or electronic report of suspected child abuse, shall include the following information, if known:

(1) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.

(2) Where the suspected child abuse occurred.

(3) The age and sex of each subject of the report.

(4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or any sibling of the child.

(5) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.

(6) Family composition.

(7) The source of the report.

(8) The name, telephone number and e-mail address of the person making the report.

(9) The actions taken by the person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.

(10) Other information required by Federal law or regulation.

(11) Other information which the Department of Human Services may require by regulation.

§ 13.303. Photographs, medical tests and X-rays of child subject to report.

A funeral director may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent, or within 48 hours after an electronic report is made under § 13.302(c)(2) (relating to suspected child abuse—mandated reporting requirements), or as soon

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thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request. Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement officials in the course of investigating cases under 23 Pa.C.S. § 6490(a)(9) or (10) (relating to release of information in confidential reports).

§ 13.304. Suspected death as a result of child abuse—mandated reporting requirement.

A funeral director who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner or medical examiner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner or medical examiner of the county where the injuries were sustained.

§ 13.305. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a funeral director who participates in good faith in the making of a report of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse or general protective services or engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317, shall have immunity from civil and criminal liability that might otherwise result by reason of the funeral director's actions. For the purpose of any civil or criminal proceeding, the good faith of the funeral director shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a funeral director's actions under §§ 13.302—13.304 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

§ 13.306. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 13.302—13.304 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions in § 13.201 (relating to professional responsibilities) and any other client confidentiality, ethical principle or professional standard that might otherwise apply. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a client does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse.

§ 13.307. Noncompliance.

(a) *Disciplinary action.* A funeral director who willfully fails to comply with the reporting requirements in §§ 13.302—13.304 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to

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disciplinary action under section 11 of the act (63 P.S. § 479.11).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties), a funeral director who is required to report a case of suspected child abuse or to make a referral to the appropriate authorities and who willfully fails to do so commits a criminal offense, as follows:

- (1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.
- (2) An offense is a felony of the third degree if all of the following apply:
 - (i) The mandated reporter willfully fails to report.
 - (ii) The child abuse constitutes a felony of the first degree or higher.
 - (iii) The mandated reporter has direct knowledge of the nature of the abuse.
- (3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.
- (4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under 23 Pa.C.S. § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.

§ 13.308. Child abuse recognition and reporting—mandatory training requirement.

(a) Except as provided in subsection (c), individuals applying to the Board for a license shall have completed at least 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services and the Bureau, as set forth in § 13.309 (relating to child abuse recognition and reporting course approval process). The applicant shall certify on the application that the applicant has either completed the required training or has been granted an exemption under subsection (c). The Board will not issue a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the applicant or the applicant has obtained an exemption under subsection (c).

(b) Except as provided in subsection (c), licensees seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, at least 2 hours of approved continuing education in child abuse recognition and reporting. This 2 hours of continuing education in child abuse recognition and reporting will be accepted as a portion of the continuing education required under § 13.401 (relating to credit hour requirements) regardless of whether it otherwise meets the requirements of §§ 13.402—13.405. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with

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the Department of Human Services, as set forth in § 13.309. The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee in an approved course or the licensee has obtained an exemption under subsection (c).

(c) An applicant or licensee may apply in writing for an exemption from the training/continuing education requirements set forth in subsections (a) and (b) provided the applicant or licensee meets one of the following:

(1) The applicant or licensee submits documentation demonstrating that:

(i) The applicant or licensee has already completed child abuse recognition training as required under section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).

(ii) The training was approved by the Department of Education in consultation with the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(2) The applicant or licensee submits documentation demonstrating that:

(i) The applicant or licensee has already completed child abuse recognition training required under 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(3) The applicant or licensee submits documentation acceptable to the Board demonstrating why the applicant or licensee should not be subject to the training or continuing education requirement. Each request for an exemption under this paragraph will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances.

(d) Exemptions granted under subsection (c) are applicable only for the biennial renewal period for which the exemption is requested. If an exemption is granted, the Board will issue or renew the license, as applicable. If an exemption is denied, the Board will email the applicant or licensee a discrepancy notice notifying them of the need to either complete an approved course or, if warranted, to submit additional documentation in support of their request for an exemption.

§ 13.309. Child abuse recognition and reporting course approval process.

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required under 23 Pa.C.S. § 6383(b) (relating to education and training) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services (DHS), Office of Children, Youth and Families, and to the Bureau at the following addresses:

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(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120; or electronically at RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649; or electronically at RA-stcpsl_course_app@pa.gov.

(b) Submissions shall include the following:

(1) Contact information (mailing address, email address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

(7) The course related materials including, as applicable:

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

(v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.

(vi) For online courses, a transcript or recording of audio training.

(8) Citation of sources, including written permission to use copyrighted material, if applicable.

(9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.

(10) Printed materials used to market the training.

(11) Evaluation used to assess participants' satisfaction with the training.

(12) Sample certificate of attendance/participation, which shall include:

(i) Name of participant.

(ii) Title of training.

(iii) Date of training.

(iv) Length of training (2 or 3 hours).

(v) Name and signature of the authorized representative of the approved

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provider. The signature may be an electronic signature.

(vi) Statement affirming the participant attended the entire course.

(13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau's web site and the Board's web site.

CONTINUING EDUCATION

§ 13.401. Credit hour requirements.

(a) During each biennial renewal period, a licensed funeral director shall complete 6 hours of continuing education, including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 13.308(b) (relating to child abuse recognition and reporting—mandatory training requirement). Except for the mandatory training in child abuse recognition and reporting, this provision does not require a funeral director to complete continuing education during the renewal period in which the funeral director is first issued a license.

(b) Except as permitted in § 13.231(d) (relating to biennial registration; unregistered status and inactive status; failure to renew) or as ~~directed~~ **ordered** by the Board **to satisfy a deficiency in continuing education for a prior biennial licensure period**, continuing education may satisfy the requirement of subsection (a) only for the biennium during which it was completed~~[No]~~, **but no** hour of continuing education may be used to satisfy the requirement ~~[of subsection (a)]~~ for more than 1 biennium.

§ 13.402. Reporting completion of continuing education.

(a) **General rule.** ~~[In general, proof]~~ **Proof** of completion of a course of continuing education must consist of a certified continuing education record, as defined in § 13.405(b)

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(relating to provider responsibilities).

(b) A licensed funeral director for whom the Board has not been provided certified continuing education records sufficient to comply with § 13.401 (relating to credit hour requirements) shall ~~otherwise demonstrate~~ have the burden to prove completion of courses of continuing education by competent evidence other than a certified continuing education record, as defined in § 13.405(b) (relating to provider responsibilities).

(c) The Board will audit licensees to verify compliance with continuing education requirements. A licensee who is being audited shall fully respond to each request for information within 30 days of the request or other time specified in the request. A licensee shall retain proof of completion of continuing education for 6 years after completion of the continuing education and for 6 years after the end of the biennial renewal period for which the continuing was required or applied, whichever is later. In any audit or disciplinary proceeding, the Board may infer from a licensee's failure to maintain records that the licensee did not complete the required continuing education.

(d) No later than thirty days from the date of mailing of an audit request by the Board to the licensed funeral director's mailing address of record with the Board, the licensed funeral director shall respond, in writing, with one of the following options:

(1) Produce a true and correct copy of each certificate of completion for a continuing education course for which the licensed funeral director claims credit in the audited biennial license period.

(2) Acknowledge that the licensed funeral director has a deficiency in the number of credit hours required for the audited biennial license period and, if the

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funeral director claims partial completion of the continuing education requirement, produces each certificate of completion for a continuing education course for which the funeral director claims credit in the audited biennial license period.

(3) Report that the funeral director completed fully or partially the continuing education requirements, does not possess a certificate of completion for the course or courses attended and produces other documentation of attendance.

§ 13.403. Credit for approved continuing education.

(a) Credit for continuing education will be granted only for courses that have been approved in advance by the Board.

(b) Unless limited by this section, continuing education credit may be earned in a course on any subject matter identified in section 5 of the act (63 P.S. § 479.5) as appropriate for examination. Continuing education credit may be earned in a course in applicable law or the provision of professional services. Continuing education credit may not be earned in any course in office management or marketing. For purposes of §§ 13.12 and 13.401–13.407 of this chapter, the terms “course,” “courses,” “course of continuing education” or “courses of continuing education” means a program of instruction that:

(1) Has a duration of no less than one uninterrupted, continuous hour.

(2) Satisfies the following course content criteria:

(i) The course covers only a subject or subjects enumerated in section 5 of the act.

(ii) The course involves significant intellectual or practical content the primary objective of which is to improve the participants’ professional

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competence and ethical behavior.

(iii) The course is not on the subject of office management, which is defined as that term is used in section 10 of the act as a course of general application to management of businesses and enterprises, with no specific relevance to the practice of funeral directing, such as mechanical, office or business skills, like typing, speed reading, or the use of calculators, computers or other machines or equipment but does not include a course which is designed to impart knowledge or skills that improve or enhance a funeral director's ability to manage a funeral establishment in a manner that improves compliance with the FTC Funeral Rule, the act, this chapter, or other laws or regulations relating to consumer protection, safety or health.

(iv) The course is not on the subjects of marketing or sales, which are defined as content relating to subjects such as sales promotion, motivation, salesmanship, stress management, time management, communication or writing.

(4) Is presented or taught by persons who are qualified with the necessary practical or academic experience necessary to conduct the program effectively.

(5) Grants credit only to an individual who attends for the entire duration of the program of instruction approved by the Board.

(6) Certifies the attendance of each individual registered for the course by at least one of the following methods:

(i) Records each individual's physical entrance before the commencement of the program and departure after the conclusion of the

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program.

(ii) Provides a mechanism to insure interactivity and/or monitor course participation for the entire duration of the program by the individual registered for the course.

(c) For purposes of this § 13.12 of this chapter, the terms “conference continuing education course” or “elective continuing education course” mean a program of instruction that:

(1) Satisfies the course content criteria set forth in paragraphs (1) through (4) and (6) of subsection (b).

(2) Includes a minimum of six (6) hours of courses of continuing education at a convention, conference or meeting and which permit a licensee registered to attend that convention, conference or meeting to elect to enroll in one (1) hour segments or parts of all of the courses offered by the course provider and approved by the Board.

§ 13.404. Approval and expiration of continuing education courses or providers.

(a) ~~[Anyone, to include any college, university, school, association, professional society and organization, seeking approval to offer continuing education shall apply]~~ Any person or entity may request approval to offer a course or courses of continuing education by applying for approval on forms provided by the Board and fully provide the information required by those application forms for the Board to fulfill its duties under this section. The application must include payment of the fee required under § 13.12 (relating to fees).

(b) Approval as a continuing education provider shall be renewed biennially.

(c) An approved provider shall apply for approval of each course of continuing

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education, or may apply for approval of a conference continuing education course or elective continuing education course. ~~[A single application]~~ An application for approval of continuing education may include multiple presentations of the course and various locations. An application for approval of a conference continuing education course or an elective continuing education course may be approved only for a single presentation.

(d) The Board may deny approval of a provider or deny all or part of a course of continuing education ~~[where the]~~ for any of the following reasons:

(1) The applicant has previously failed or is not currently able to comply with § 13.405 (relating to provider responsibilities). ~~[or the]~~

(2) The course does not qualify under § 13.403 (b) (relating to credit for approved continuing education). ~~[The Board may approve in part and deny in part an application for approval of a provider or course.]~~

(3) The ~~[Board may deny an]~~ application for provider or course approval ~~[that]~~ does not comply with the act or this chapter.

(e) The ~~[Board]~~ Commonwealth may ~~[terminate its]~~ commence proceedings under the Administrative Agency Law for a violation of the act or this chapter by a course provider and demand in the alternative or different forms of relief authorized by law, including but not limited to, the levy of a civil penalty for each violation, imposition of costs of investigation under section 5.1 of act 48 of 1993, and the termination of prior approval of a provider or course of continuing education for any of the following reasons:

(1) ~~[when the]~~ The applicant made one or more false or misleading material statements on the application. ~~[The Board may also terminate in part or in whole its prior~~

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~~approval of a provider or course when it is later determined that the Board has grounds to deny approval in accordance with this section.~~

(2) Any reason set forth in subsection (d).

(f) Approval of a course provider will expire at the end of the biennial licensure period.

(g) Approval of a single course of continuing education will expire at the end of the biennial licensure period.

(h) Approval of a conference continuing education course or elective continuing education course will expire on the day following the date of presentation approved by the board.

§ 13.405. Provider responsibilities.

(a) For each course of continuing education, the provider shall:

(1) Disclose in advance to prospective attendees the following course information:

(i) Objectives.

(ii) Content.

(iii) Teaching method.

(iv) The method approved by the Board for which attendance will be certified under § 13.403(b)(6)(ii). ~~and~~

(v) The number of hours of continuing education for which a licensee may receive credit.

(2) Open each course to all licensees.

(3) Provide adequate physical facilities for the number of anticipated participants

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and the teaching methods to be used.

- (4) Provide accurate instructional materials.
 - (5) Employ qualified instructors who are knowledgeable in the subject matter.
 - (6) Evaluate the program through the use of questionnaires of the participants and instructors.
 - (7) Issue a certified continuing education record to each participant.
 - (8) Retain attendance records, written outlines, and a summary of evaluations for ~~5~~ 4 years by any method which stores the required information and permits prompt retrieval during the required retention period.
- (b) Each continuing education record must include:
- (1) The name of the participant.
 - (2) The date or dates of the course.
 - (3) The name of the course.
 - (4) The provider's name.
 - (5) The number of hours of continuing education credit.

§ 13.406. Demonstration of embalming techniques.

- (a) With prior approval of the Board, embalming of human remains to demonstrate techniques during a program of continuing education will not be considered to be the practice of funeral directing at an establishment not authorized by the Board.
- (b) Only a licensed funeral director may demonstrate embalming techniques at a program of continuing education in this Commonwealth.

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