



## **OKLAHOMA FUNERAL BOARD**

### ***RULES OF THE OKLAHOMA FUNERAL BOARD EFFECTIVE JULY 11, 2025***

*The official copy of the permanent rules of the Oklahoma Funeral Board is on file with the Office of Administrative Rules of the Oklahoma Secretary of State and may be found in Title 235 of the Oklahoma Administrative Code (OAC). Other publications such as this one are unofficial. The agency has made every attempt to verify the accuracy of the text of this document. However, in the case of any disparity of text, the official copy will prevail.*

#### **TITLE 235. - OKLAHOMA FUNERAL BOARD CHAPTER 1. - ADMINISTRATIVE OPERATIONS**

##### **235:1-1-1. Purpose**

The rules of this Chapter have been adopted to comply with the provisions of the Administrative Procedures Act. They concern and control the organization, powers, duties, operations, and procedures of the Board with respect to its administration, rule-making, individual proceedings, and other activities.

##### **235:1-1-2. Executive Director of the Board**

(a) **Administrative officer.** The Executive Director is the administrative officer for the Board. The Executive Director shall perform all delegated statutory duties as well as other duties as the Board may assign. The Executive Director shall supervise all employees of the Board. The Executive Director may employ, discipline, or discharge any Board Employee. The Executive Director may delegate, subject to the Executive Director's supervision and responsibility, such administrative duties, as the Director deems appropriate, to subordinate employees. The Executive Director shall be responsible to the Board for maintaining Board records.

(b) **Administrative decisions.** The Executive Director shall render necessary administrative decisions for the Board during such time the Board is not in session.

(1) The administrative decisions must be consistent with Oklahoma Statutes and Board Rules.

(2) Parties affected by the administrative decision may appeal to the Board by requesting placement on the agenda for the next regular or special meeting except that an administrative decision denying permission to write the State Board examination for lack of documented proof of required educational credits shall not be appealable to the Board.

(3) Such administrative decisions shall have the full force and authority of a Board decision until reversed or modified by the Board in open meeting.

(c) **Schedule of meetings.** The Executive Director shall schedule all Board meetings, file notices of Board meetings as required by the Oklahoma Open Meeting Law, and prepare an agenda for each Board meeting to be posted at the Board office in advance of the meeting, and be provided to each Board member. All applications or other items requiring Board action must be received and date-stamped by Board staff at least fourteen (14) calendar days prior to a Board meeting to be considered at that meeting. Anyone may request the Board consider an item received after this time by requesting in writing to appear before the

Board. Nothing in this section shall prohibit the Board from taking any action allowed by law on its own motion.

## **TITLE 235. - OKLAHOMA FUNERAL BOARD CHAPTER 10. – FUNERAL SERVICES LICENSING**

### **SUBCHAPTER 1. GENERAL PROVISIONS**

#### **235:10-1-1. Purpose**

The mission of the Oklahoma Funeral Board is to act in the public interest and for the protection of the public within the powers vested in the Board by the State of Oklahoma for the regulation and education of the funeral service profession.

#### **235:10-1-2. Definitions**

The following words and terms when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise.

**"Apprentice"** means an individual who has registered as an apprentice with the Board, and is an employee of a funeral service establishment, or a commercial embalming establishment.

**"At-need"** means after the individual died.

**"Approved place of final disposition"** means a licensed crematory or other place legally established or historically recognized to receive human remains for final disposition. Historical sites as evidenced by existing grave(s) that were in place prior to the planned interment shall constitute an approved place of final disposition.

**"Board"** means the Oklahoma Funeral Board.

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

**"Commercial Embalming Establishment"** means a fixed place of business with a preparation room and other facilities and equipment required to embalm, transport, or ship dead human remains, but limited to serving licensed funeral establishments, both in and outside the State of Oklahoma.

**"Cremation"** means the technical process, using heat, that reduces dead human remains to bone fragments. The reduction takes place through heat and evaporation. The cremation process shall include, but not be limited to, the processing and pulverization of the bone fragments.

**"Cremation Chamber"** means the enclosed space contained within a machine that has been duly manufactured for the sole purpose of cremating dead human remains within which the cremation is performed.

**"Cremation Container"** means a casket or other container designed to transport a deceased human body and for placement in a cremation chamber during cremation.

**"Direct disposition"** means the disposal of dead human remains without ritual, ceremony, or other procedures normally included in a funeral service. Direct disposition may or may not be followed by a memorial service.

**"Embalmer"** means any individual licensed to engage in the practice of embalming. Any person who performs the duties of an embalmer as outlined in these rules, or who holds himself out to the public in any manner whatsoever as an embalmer must be licensed by the Board.

**"Full-time employee"** means a full-time employee at a funeral service establishment, or the commercial embalming establishment which is his principal place of employment as evidenced by payroll and employment records.

**"Funeral director"** means any individual licensed to engage in the practice of funeral directing as outlined in these rules.

(A) Any individual who holds himself out to the public in any manner whatsoever that he is a funeral director shall be licensed by this Board.

(B) Any individual who uses in conjunction with his name or business any of the words "undertaker", "mortician", "funeral home", "funeral parlor", "funeral chapel", "funeral consultant", or other title implying that he is in the business of funeral directing herein shall be licensed by this Board.

**"Funeral Director in Charge - FDIC"** an individual licensed as a funeral director designated by a funeral service establishment, commercial embalming establishment, or crematory who is responsible for the legal and ethical operation of the establishment-and is accountable to the Board.

**"Funeral service"** means a ritual or ceremony conducted with a body or bodies present with said ritual or ceremony conducted prior to final disposition. A funeral service shall be conducted by a licensed funeral director under the supervision of a licensed funeral service establishment.

**"Funeral service establishment"** means a fixed place of business used and equipped for funeral services, or for the retail sale or display of funeral service merchandise, or used to embalm, transport, or ship dead human remains, and to provide for the care and disposal of dead human remains. Any fixed place of business held out to the public as a funeral service establishment shall be inspected and licensed by the Board

**"Funeral service merchandise"** means those products and services normally provided by funeral establishments, including but not limited to burial supplies and equipment.

(A) Funeral service merchandise includes any items of service or merchandise offered by the funeral service establishment as required to be listed on the General Price List mandated by the Federal Trade Commission with the exception of outer burial containers.

(B) Funeral service merchandise excludes the sale by an organization of cemetery land or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches or outer burial containers.

**"Human remains"** means the body of a dead human being, deprived of life, but not yet entirely disintegrated.

**"License"** means a document issued by the Board certifying qualifications under the laws of the State of Oklahoma to practice as an embalmer or funeral director, or to operate a funeral service establishment or a commercial embalming establishment, or to operate a crematory.

**"Licensees"** means individuals who have met all of the requirements to be licensed by the State of Oklahoma to practice as funeral directors, or embalmers and are properly registered with the Board.

**"Memorial service"** means a ritual or ceremony conducted without the presence of a body or bodies which may be conducted before or after final disposal.

**"Personal supervision"** means the physical presence of a licensed funeral director or embalmer at the specified time and place of the providing of acts funeral service, practice of embalming, or practice of funeral directing.

**"Practice of embalming"** means the work of disinfecting or preserving dead human remains, entire or in part, by arterial embalming, or otherwise, for the preparation and the disposition, or for the care of dead human remains for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work.

**"Practice of funeral directing"** means the work of preparing for the burial or disposal of dead human remains, otherwise than by embalming, or for the care of dead human remains for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work or being in the general control, supervision or management of the operations of a funeral service establishment.

**"Practicum Student"** means a student currently enrolled in an accredited Funeral Service Program located in Oklahoma working in a funeral establishment to satisfy educational requirements.

**"Pre-need arrangements"** means arrangements made for final disposition prior to the occurrence of a death.

**"Temporary Container"** means a receptacle composed of cardboard, plastic or similar material designed to temporarily store cremated remains until the remains are placed in an urn or other permanent container.

#### **235:10-1-3. When Board rules are not applicable**

- (a) **Related to deceased.** Board rules shall not apply where an individual related to the deceased by blood or marriage provides a burial receptacle and buries the related deceased without embalming or conducting a funeral service.
- (b) **State officials.** Board rules shall not apply in any way to interfere with the duties and responsibilities of any State official empowered and authorized to handle the disposition of a dead human body in his legal custody.

#### **235:10-1-4. Request for interpretation of rules**

- (a) Any person who may be affected by the existence of application of any of the rules of this chapter may request in writing an interpretation of ruling regarding the application of such rule to the facts furnished with the inquiry. Any such request shall state fully the facts concerning which the rule may apply, and the particular rule about which the question exists. The request or inquiry will be added to the agency for the next scheduled Board meeting and may if necessary be continued for further consideration to additional business meetings. The Board's interpretation of the rule will be furnished in writing to the person making the request, within a reasonable time thereafter.
- (b) Requests for interpretation of rules shall not be accepted or considered if the request involves facts and/or circumstances whereupon a complaint has been filed, but not yet disposed.

### **SUBCHAPTER 3. QUALIFICATION AND REQUIREMENTS FOR LICENSURE**

#### **235:10-3-1. Qualifications for licensing individuals**

To be licensed in Oklahoma as a funeral director, embalmer, or both, an individual must meet the following minimum requirements:

- (1) The individual must be twenty (20) years of age.
- (2) The individual must be of good moral character.
- (3) The Board may refuse to issue a license to an individual convicted of any felony, or a misdemeanor related to funeral service licensing act, the prepaid funeral benefits act, funeral services, or pertaining to the custody, care, or disposal of dead human remains, unfair trade practices, or fraud.
- (4) The individual must be a citizen of the United States, or a permanent resident of the United States.
- (5) The individual shall have completed a program of mortuary science accredited by the American Board of Funeral Service Education.
- (6) The individual shall have successfully passed the National Board Examination of the International Conference of Funeral Service Examining Boards with an average grade of seventy five percent (75%) or better on the Arts section for applicants for a funeral director license, and applicants for an embalmers license shall have earned an average of seventy five percent (75%) or better on the Science section.
- (7) The individual shall have successfully passed the Oklahoma Law examination with a grade of seventy five percent (75%) or better. The Oklahoma Law examination shall cover the Oklahoma Funeral Services Licensing Act and the Prepaid Funeral Benefits Act, and the Rules of the Board. The Oklahoma law written examination shall not be administered until the applicant has completed all educational requirements and other examination requirements with proof of such completion on file in the Board office. Rejection of an application to take the written examination for failure to complete educational requirements, or failure to file proper proof of completion of educational requirements is not appealable to the Board.
- (8) The applicant must have paid any and all fees due and payable prior to licensing.
- (9) The individual must have served and completed an embalmer and/or funeral director apprenticeship(s) in the State of Oklahoma or has completed an apprenticeship the Board determines to be substantially equivalent to that required by Oklahoma.
- (10) Once all requirements set forth above have been met, the individual may apply for a license as a funeral director, embalmer, or both.

### **235:10-3-2. Requirements for licensing funeral service establishments**

To be licensed by the Board a funeral service establishment or a commercial embalming establishment must meet the following minimum requirements:

(1) **Ownership.** The establishment shall be operated by a sole owner, a partnership, a limited liability partnership, a limited partnership, a limited liability company, or a subsidiary of a corporation, a partnership, a limited liability partnership, a limited partnership, or a limited liability company, or by a corporation chartered in the State of Oklahoma.

(2) **Fixed place.** The establishment shall have a fixed place of business with a specific street address or physical location and shall conform to local zoning ordinances as evidenced by an occupancy permit issued by the proper local governmental entity authorizing the occupancy of a funeral service establishment at that location. Only one establishment license shall be issued to a specific address. If the establishment will contain a preparation room which does not discharge into a municipal sanitary sewer it must also secure permission from the appropriate county and/or state agency for any such discharge from the embalming room prior to being eligible to receive a funeral establishment or commercial embalming establishment license from this Board. Any establishment which has been issued an establishment license under a rule of the Board having different requirements than this sub-section for a fixed place will be permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed, except as provided under sub-section (15).

(3) **Inspected.** The establishment shall be inspected by a representative of the Board prior to being initially licensed and periodically as determined by the Board.

(4) **Statutes and Rules.** Each establishment shall have available a current copy of the Oklahoma Statutes and Rules related to the practice of funeral directing and embalming available for public inspection.

(5) **Preparation room.**

(A) The establishment shall have a preparation room. Such preparation room shall meet the following minimum requirements:

(i) **Construction.** The walls, floor, and ceiling must be constructed, and of such materials and finished in a way that they may be cleaned and disinfected. The room must be of sufficient size and dimension to accommodate an embalming table, a sink that drains freely with hot and cold running water connections, an instrument table, cabinet, and shelves. The embalming table must have a rust proof metal, porcelain, or fiberglass top, with edges raised at least 3/4 inches around the entire table and drain opening at the lower end.

(ii) **Ventilation.** The preparation room shall be heated and air-conditioned. The preparation room must be properly ventilated with an exhaust fan that provides at least five room air exchanges per hour. All fumes must be ventilated to the outside atmosphere. The construction must be such that odors from the preparation room cannot enter the rest of the establishment.

(iii) **No public use.** The room shall not have a passageway available for public use.

(iv) **Equipment.** The room shall contain sufficient supplies and equipment for normal operation. Nothing in this subsection shall require embalming chemicals to be stored in the preparation room. The room shall have no excess equipment stored, other than equipment necessary for preparing dead human remains, and performing necessary restorative art work. There shall be storage shelves, drawers, or cabinets for all supplies, instruments, and equipment. The room and equipment shall be maintained in a clean and sanitary condition.

(v) **Openings covered.** All outside openings shall be covered with screens.

(vi) **Interior view.** Measures must be taken to prevent a view of the interior of the room through any open door or window.

(vii) **Body Intake Log.** Each funeral establishment or commercial embalming service shall maintain in the preparation room of that establishment, or within a reasonable proximity of the preparation room, a log book. The log book shall list the name of each human remains received at this location including the date and time the remains were received, the care or preparation of the remains (i.e., bathe, disinfect, refrigerate, or embalm), the date and time that the embalming occurred, the disposition of the remains, and the name, signature, and license number of the embalmer(s) and apprentice(s). If the remains were prepared at another location, that location shall be listed in lieu of the name and signature of the embalmer(s) and apprentice(s). The log book must be available at all times for inspection by the Board.

(B) **Exceptions.** A funeral establishment operated in conjunction with another licensed funeral establishment, with same ownership, shall be exempt from maintaining a preparation room provided it is located within 60 miles of the main establishment and can be practically served by the main establishment.

(6) **Selection room.** The establishment shall have a selection room. Such room shall be devoted solely to the purpose of providing a means for the public to make a reasonable selection of funeral service merchandise. Such room shall be of adequate size and furnishings. Such selection room shall meet the following minimum requirements:

(A) **Casket and outer burial container price lists.** The funeral provider must offer a printed or typewritten price list to people who inquire in person about the offering or prices of funeral merchandise including caskets, alternative containers and outer burial containers. The price list must be offered upon the beginning of discussion of, but in any event before showing the funeral merchandise. In lieu of a written list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner.

(B) **Caskets.** Each funeral establishment shall maintain an inventory of not less than five adult caskets at the location, or five quarter panel or end cut display units provided by a commercial casket manufacturer. Any establishment which has been issued an establishment license under a rule of the Board having different requirements than this sub-section for the number of caskets in inventory will be permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed, except as provided under sub-section (15).

(C) **Equipment.** The selection room shall have no excess equipment stored, other than equipment necessary for the proper display of funeral service merchandise.

(D) **Condition.** The room shall be maintained in a clean, neat, and orderly fashion at all times.

(7) **Other rooms.** The establishment shall have adequate areas for public viewing of dead human remains and necessary offices for conducting the business affairs of the establishment. The establishment may have other rooms, offices, and other facilities, including restrooms for the staff and public lounge areas. All other rooms and facilities shall be maintained in a clean, neat, and orderly fashion at all times.

(8) **Vehicles.** The establishment shall have the necessary automotive vehicles to provide adequate service to the public. This shall not prohibit the establishment from arranging to lease, borrow, or otherwise arrange for extra vehicles when needed.

(9) **Licensed funeral director and embalmer.**

(A) Each funeral service establishment shall have at least one full-time dual licensed funeral director and embalmer employed to be designated as the Funeral Director-in-Charge of the operation of the establishment and who has been approved by the Board as the Funeral Director in Charge. The establishment must also have a sufficient number of other licensed individuals to adequately serve the public.

(B) If an individual owner, partners, or corporation officers are not licensed funeral directors, then the owner, partners, or the corporation must employ a full-time dual licensed funeral director and embalmer to serve as Funeral Director-in-Charge of the establishment.

- (C) No licensed funeral director may serve as the Funeral Director-in-Charge of more than one (1) funeral service establishment without the express written authorization of the Board. With the written order of the Board a licensed funeral director, upon good cause shown that such is in the public interest, may serve as a Funeral Director-in-Charge of more than one (1) funeral service establishment but in no event may any such licensed funeral director be the Funeral Director-in-Charge of more than three (3) such funeral service establishments. All of the establishments must be under the same ownership, and no establishment included in the application can be more than a 90 miles radius from the most centrally located establishment contained in the application.
- (D) The funeral director-in-charge shall reside and maintain a permanent residence within 90 miles of the funeral establishment, commercial embalming establishment, or crematory.
- (E) The Funeral Director-in-charge of an establishment(s) serves that position and retains the responsibility of Funeral Director-in-charge until he or she notifies the Board in writing of such termination or resignation from that position. The letter notifying the Board must be within (10) ten days of separation of employment.
- (10) **Funeral Director In Charge.** The Funeral Director in charge shall be listed on the original establishment application and any subsequent establishment renewal applications, and on the body intake log.
- (11) **Transferability.** No establishment license is transferable from one person to another, or from one location to another. In case of the sale, lease, or relocation to a new location, or a change of name of the establishment, the establishment license may remain in force by mutual consent of the buyer and seller for a period of (30) thirty days or until the next regularly scheduled Board meeting, and at such time the license shall expire. The Funeral Director-in-Charge must notify the Board office in writing and within ten days of change of ownership, change of Funeral Director-in-Charge, change of address, or change of name. The purchaser, lessee, or owner must notify the Board office to request an inspection, and issuance of a new license. Upon purchase, lease or change of address, a new establishment license application must be submitted with fee. Upon change of name or change of Funeral Director-in-Charge, a form determined by the Board shall be submitted with the appropriate fee, per OAC 235:10-5-1. If exigent circumstances warrant additional time to facilitate a Funeral-Director-In-Charge change, upon good cause shown and with written agreement by a licensed funeral director and Embalmer to assume responsibility in the interim, the Board may grant no more than 2 requests of 90 days for an establishment to employ the new Funeral-Director-in-Charge. The licensed funeral director assuming responsibility in the interim shall be exempt from the requirements in 235:10-3-2 (9).
- (12) **Requirement to practice.**  
The issuance of a funeral service establishment license to an individual not licensed as a funeral director does not entitle the individual to practice funeral directing.
- (13) **License lapse.** All establishment licenses lapse on the thirty-first of December for the year issued.
- (14) **Inspection.** Every funeral service establishment, commercial embalming establishment, or crematory, shall be at all times subject to inspection by the Board. Inspections are to be reasonable in regard to time and manner.
- (15) **Grandfather.** Any establishment which has been issued an establishment license under a rule of the Board having different requirements, then such Establishment is permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed. The Establishment license of such grandfathered establishment is not transferable. At such time as a change of ownership, purchase, lease, or change of address of such grandfathered funeral establishment is made then such establishment must meet the current requirements of this subchapter.

(16) **Application.** Any person or entity who desires to operate a funeral service establishment, commercial embalming establishment, or crematory must submit an application for an original license, renewal of a license, or change in funeral director on forms provided by the Board.

(A) Each application for an original license shall include, at a minimum, the following:

(i) The current and previous name, if any, for a funeral service establishment, commercial embalming establishment, or crematory;

(ii) The address of the physical location and telephone number of the funeral service establishment, commercial embalming establishment, or crematory;

(iii) The name and license number of the proposed Funeral Director in Charge and affidavit of proposed Funeral Director in Charge;

(iv) The name of the current owner and, if applicable, all previous owners for the past sixty (60) months of the funeral establishment, commercial embalming establishment, or crematory;

(v) Whether the funeral service establishment, commercial embalming establishment, or crematory is a sole proprietorship, corporation, partnership, a limited liability partnership, limited partnership, a limited liability company, or a subsidiary of a corporation, a partnership, limited liability partnership, limited partnership, a limited liability company, or other business entity;

(vi) The name and address of each person owning five (5) percent or more of the funeral service establishment, commercial embalming establishment, or crematory, or corporation common stock, or of the equity capital or membership interest of a limited liability company, a partnership, a limited liability partnership, a limited partnership, or sole proprietorship;

(vii) If a corporation, partnership, limited liability partnership, limited partnership, or limited liability company;

(I) The state and date of incorporation or formation;

(II) The name and address of the registered agent or agent appointed to receive service of process;

(III) The name, address, and title of each officer, director, general partner, or member and

(IV) A copy of the certificate of incorporation, articles of organization, or certificate or agreement of formation, and any other document filed with the Oklahoma Secretary of State, which allows the entity to do business in Oklahoma.

(viii) Whether the applicant, or any individual required to be disclosed under this section, has ever been convicted of, or entered a plea of guilty or no contest, to a felony, or to a misdemeanor related to funeral services, including the:

(I) Felony or misdemeanor charged;

(II) Date of conviction or plea;

(III) Court having jurisdiction over the felony or misdemeanor;

(IV) Probation officer's name, address, and telephone number, if applicable.

(ix) Whether the applicant, or any individual required to be disclosed under this section, has received any adverse ruling from any court of competent jurisdiction or any administrative tribunal involving honesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence reasonably related to funeral services, including the case number and the court or administrative body in which it was filed.

(x) Whether the applicant, or any individual required to be disclosed under this section, has ever had an application for a license, registration, certificate, or endorsement denied or rejected by any state licensing authority, including the:



- (I) Reason for the suspension or revocation;
  - (II) Date of the denial or rejection; and
  - (III) Name and address of the state licensing authority that denied or rejected the application.
- (xi) Whether the applicant, or any individual required to be disclosed under this section, has ever had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority, including the:
  - (I) Reason for the suspension or revocation;
  - (II) Date of the suspension or revocation; and
  - (III) Name and address of the state licensing authority that suspended or revoked the license.
- (xii) Whether the applicant, or any individual required to be disclosed under this section, has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority.
- (B) Renewal applications shall include any changes in the above information from the original application or the previous renewal application.
- (17) **Renewal license.** Once issued, all original funeral service establishments, commercial embalming establishments, and crematories shall lapse on December 31 of the year of issue. Thereafter, except as provided in 235:10-3-2(11) said establishment may make application for renewal of the existing original license. The renewal application shall contain information as deemed appropriate by the Board.
- (18) **Grounds for refusal.** The board may refuse to issue an original license or renew a license:
  - (A) For any felony conviction, or a misdemeanor conviction related to funeral service, by any individual required to be disclosed under this sub-section, may be grounds to deny the application.
  - (B) For any answer in the affirmative to 235: 10-3-2 (16)(A)(viii,ix,x,xi,xii), by any individual required to be disclosed in this sub-section.
  - (C) If the Board finds the application contains false or misleading information.
  - (D) If the Application is incomplete or improperly completed.
  - (E) Failure to pay the license application fee.
  - (F) Failure to comply with all other rules as prescribed in Section 235.
  - (G) For any individual required to be disclosed under this section who is implicated in a complaint that has been found to have probable cause. The application may be tabled pending the resolution of the complaint.

### **235:10-3-3. Licensing commercial embalming establishments**

Commercial embalming establishments shall meet all requirements for a full service establishment, except that:

- (1) **Requirements.** A commercial embalming establishment shall have a preparation room or embalming room meeting the requirements as set forth in this section.
- (2) **Prohibition.** A commercial embalming establishment is prohibited from maintaining a selection room intended in any way for sales to the public, and are prohibited from utilizing any selection room for such sales.
- (3) **Services limited to licensed funeral establishments.** A commercial embalming establishment may provide its services only to licensed funeral establishments anywhere in the United States, or in any foreign country which licenses funeral service establishments.

### **235:10-3-5. Apprentice qualifications and registration**

(a) **Qualifications.** In order to register with the Board as an apprentice, each individual must meet all of the following conditions:

- (1) **Age.** The applicant must be seventeen (17) years of age.
- (2) **Education.** The applicant must be a high school graduate, or possess a Graduate Equivalent Diploma (G.E.D.).
- (3) **Sound moral character.** The applicant must be of sound moral character.
  - (A) The Board may refuse registration to an individual who has been convicted of a felony, or a misdemeanor related to funeral services or pertaining to the custody, care or disposal of dead human remains, or unfair trade practices, or fraud.
  - (B) Failure to reveal such conviction at the time of application will result in termination of registration by operation of law.

(b) **Registration.** Each registration must be accomplished by completing an application form supplied by the Board office, accompanied by:

- (1) **Documented proof.** A diploma, transcript, G.E.D. Certificate, or other documented proof, acceptable to the Board, proving completion of high school requirements.
- (2) **Affidavit.** An employment affidavit form provided for the Board completed by the apprentice and the establishment at which he will be employed.
- (3) **Fee.** The required registration fee at the beginning of each year of apprenticeship.

(c) **Apprenticeship.** After qualifying and being registered by the Board, the serving of the apprenticeship for purposes of being licensed shall require the following:

- (1) **Employment.** Employment at a licensed funeral establishment for a period of 12 months.

(A) **No part-time supervision.** No apprentice may be supervised or trained by a part-time licensed funeral director or embalmer.

(B) **Place of service.** The apprenticeship for licensing as a funeral director and embalmer may be served at the same time at a funeral service establishment, nothing shall prohibit an apprenticeship in embalming from being served at a commercial embalming establishment.

- (2) **Reports.** Apprentices must properly file reports in the format prescribed by the Board documenting their employment and completion of embalming and funeral directing experiences.

(A) **Due date.** Each report is due the 1st and must be filed no later than the 10th day of the month it is due.

(B) **Postmark.** The postmark for mailed reports or the Board's electronic mail date stamp for emailed reports shall determine the date of filing for the monthly reports and case reports.

(C) **Late reports.** Reports received late shall not count toward the total number required for licensing.

- (3) **Cancellation.** An apprenticeship shall automatically be cancelled by the failure to file one quarterly report, unless an exception has been granted in writing by the Board.

- (4) **Renewal.** Subject to other provisions of this Subsection, an apprentice registration is valid only for 12 months. Apprenticeship registration may be renewed up to four times if such application is accompanied with an official transcript showing that such applicant is a graduate from or then an active student enrolled in an accredited school of mortuary science, and payment of the required fee.

- (5) **Supervision.** No apprentice shall perform the practice of embalming or the practice of funeral directing unless the apprentice is doing so under the personal supervision of a licensed embalmer or funeral director.

- (6) **Assistance.** An apprentice shall, under personal supervision, assist in the embalming of at least twenty-five (25) human remains and assist in the direction of at least twenty-five (25) funerals.
- (d) **Practicum student requirements.** Practicum students must be participating in a scheduled, supervised and accredited program for practicum students established by the accredited school of mortuary science. Practicum students must have a letter of agreement with the participating funeral service establishment where the practicum is to be conducted. No registration of practicum students is required by this Board.

## **SUBCHAPTER 5. LICENSING FEES**

### **235:10-5-1. License and other Board fees**

(a) The following shall be the fees charged for the licenses, registrations and examinations required by the Funeral Services Licensing Act:

- (1) Funeral Director License or Renewal - \$75.00
- (2) Embalmer License or Renewal - \$75.00
- (3) Registration or Extension of Funeral Director/Embalmer Apprentice - \$150.00
- (4) Oklahoma Law Examination - \$100.00
- (5) State Board Arts Examination - \$100.00
- (6) State Board Science Examination - \$100.00
- (7) Funeral Establishment License or Renewal - \$250.00
- (8) Commercial Embalming Establishment License or Renewal - \$250.00
- (9) Reciprocal License for Funeral Director or Embalmer - \$150.00
- (10) Change of Funeral Director in Charge - \$500.00 anytime during the year
- (11) Crematory License Renewal - \$250.00
- (12) Original Funeral Establishment License Fee - \$750.00
- (13) Original Commercial Embalming Establishment Fee - \$750.00
- (14) Original Crematory License Fee - \$750.00
- (15) Change Establishment or Crematory Name - \$250.00 anytime during the year.

(b) **Administrative service fees.** Fees for service exceeding normal maintenance of Board records shall be as determined by the Board in open meeting. No such service fee may exceed the amount of

- (1) Mailing list of establishments - \$15.00
- (2) Mailing list of individual licensees - \$15.00
- (3) Duplicate licenses - \$15.00 per license
- (4) Photocopies - per page - \$ .25
- (5) Postage/shipping - net cost

(c) **Renewal fees.** All renewal license fees shall be due and payable on December 31 for the following calendar year.

(d) **Double fee.** All renewal license fees, if not paid by December 31 for the following calendar year, the license shall lapse and the fee doubled and if the fee is not paid on or before April 30 of the subsequent year, the licensee shall be in default and the license shall be suspended automatically. No practice of funeral directing or embalming will be permitted on a lapsed or suspended license.

(e) **Non-refundable.** No fees paid to the Board shall be refundable.

(f) **Initial fee.** The initial funeral director and/or embalmer license fee shall become due and payable with the application for licensure. If the initial license is issued to the licensee after July 1 of each calendar year, the applicant shall be required to pay one-half (50%) of the current initial license fee.

(g) **Examination fee.** Examination fees are due and must be paid prior to the examination.

(h) **Returned check.** Any fee paid by a check which is returned to the Board from the bank shall then be paid by money order, Cashier's check, or cash within ten (10) days after the check has been returned from the bank, plus a "returned check processing fee" of \$20.00.

**235:10-5-2. Military service exemption from payment of renewal fees.**

(a) **Entering Service.** Any individual licensee of the Board who enters a period of active military service, with the United States Government whether by enlistment, by being drafted, or by being a member of a National Guard Unit or a Military Reserve Unit which is called to active duty by the Federal Government, shall be excused from paying renewal fees during the period of active military service, and his or her license shall remain in full force and effect.

(b) **ROTC not applicable.** The provisions of this section shall not apply to an individual participating in any ROTC program on any college or university campus.

(c) **Board notification.** The exemption from the payment of renewal fees shall not apply until the individual licensee has in writing notified the Board office of his/her entrance into active duty in the military service as set forth in this Section.

**SUBCHAPTER 7. LICENSURE RENEWAL, REVOCATION AND SUSPENSION**

**235:10-7-1. Reinstatement of licenses lapsed for non-payment**

(a) **Fee payment.** A funeral director or embalmer license that for a period of less than three (3) years lapsed for failure to pay renewal fees may by payment of all past dues and penalties be reinstated without retaking the State Law Exam.

(b) **Lapsed license.** If a funeral director or embalmer license has been lapsed for three or more years, to be reinstated the holder of such lapsed license shall apply for and successfully pass the State Law Examination and pay a fee of \$500.00.

(c) **Required grade.** Any applicant taking the State Law Examination must make a grade of 75% or better for the license to be reinstated.

**235:10-7-2. Prohibited acts**

The following prohibited acts shall constitute grounds for the suspension or revocation of any license or registration issued by the Board.

(1) **Material misrepresentation.** Material misrepresentation to the public of facts, requirements of Oklahoma Statutes, State Board Rules, or any rule or regulation pertaining directly to the custody, care, or disposal of dead human remains. Material misrepresentations is also construed to include a person knowingly and willfully signing a certificate as having embalmed, cremated, or prepared a dead human body for disposition when, in fact, the services were not performed as indicated. A material misrepresentation also includes misrepresentation to the Board of completion of continuing education requirements when the requirements were not met.

(2) **Criminal Actions.** A felony conviction or plea of guilty or nolo contendere in a felony matter, or any misdemeanor pertaining to the custody, care or disposal of dead human remains, or involving funeral service, or unfair trade practices, or fraud.. A copy of the record of conviction, judgment and sentence certified by the clerk of court entering the conviction shall be conclusive evidence of conviction. However, anyone who has surrendered their license or has had their license suspended or revoked because of a conviction of a felony or misdemeanor where substance abuse or mental illness is the underlying cause of the crime, may appeal to have his or her license reinstated. In determining whether to reinstate the license of such an individual, the Board may

consider the length of time since the plea or conviction, education since the plea or conviction, recovery status since the plea or conviction if the underlying crime was alcohol-or drug-related, and the public safety of allowing the individual to be licensed.

(3) **Price lists.**

(A) Failure to give a printed or typewritten General Price List (GPL) for retention to persons who inquire in person about the funeral goods or funeral services offered by the funeral establishment. The GPL must be presented upon beginning discussion of any of the following: the prices of funeral goods or funeral services; the overall type of funeral service or disposition; or specific funeral goods or funeral services offered by the funeral establishment.

(B) Failure to offer a printed or typewritten price list to persons who inquire in person about the offerings or prices of caskets or alternative containers, or outer burial containers before showing the caskets. In lieu of a written list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner.

(4) **Statement of goods and services selected.** Failure to give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information:

(A) the funeral goods and funeral services selected by that person and the prices to be paid for each of them;

(B) specifically itemized cash advance items. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a statement of the actual charges shall be provided before the final bill is paid; and

(C) the total cost of the goods and services.

(5) **Pre-need Requirements.** Failure to comply with the requirements of Oklahoma Statutes and Rules of the State Insurance Commission pertaining to pre-need funeral service arrangements.

(6) **Non-licensed director.** The practice of funeral directing by an individual not licensed as funeral director.

(7) **Non-licensed embalming.** Embalming of any dead human remains by an individual not licensed as an embalmer.

(8) **Non-registered apprentice.** The holding out by any person that such person is an active registered apprentice when such person is not an active registered apprentice.

(9) **Failure to discharge financial obligation.** Failure to pay any vendor or third party obligation, within 90 days, that arises out of a Statement of Goods and Services that has been signed by the authorized person or failure to satisfy a judgment rendered by a court of proper jurisdiction, within 90 days or as ordered by the court, in favor of a vendor or third party provider as designated on the Statement of Goods and Services or in connection with goods and services provided for a specific buyer.

(10) **Desecration.** Damage, abuse, desecration or the unauthorized removal of tissue, bones, or organs of any human remains in the custody of a licensed funeral service establishment, commercial embalming establishment, crematory, funeral director, embalmer, or apprentice. Desecration shall not include the removal of blood, body fluids, body tissue, or other body parts in the normal course of embalming or restoration requested by authorizing agent. Desecration also includes the simultaneous cremation of more than one human dead body without express written approval of the authorizing agent, cremating human remains without the permit requires by 63 O.S. §1-329 or cremating dead human remains without express written approval of the authorizing agent.

- (11) **Solicitation.** Solicitation of business, either personally or by an agent, from a dying individual or the relatives of a dead or individual with a terminal condition as defined by the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, other than through general advertising.
- (12) **Used casket.** Using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the burial, cremation, or other disposition of dead human remains, without making the required disclosure to the individual making the selection.
- (13) **Charging.** For service or merchandise not contracted for or failing to provide the services or merchandise contracted for or making substitution for services or merchandise contracted for without the authorization of the customer.
- (14) **Failure to file.** Failure to file a death certificate, cremation permit, disinterment permit or any other necessary permit as required by law in a timely manner.
- (15) **Failure to submit application for establishment license.** Failure to notify the Board of a change of ownership, sale, purchase, lease, change of name, change of address, or change of funeral director in charge within ten (10) business days.
- (16) **Suspension or revocation.** The suspension or revocation by another state of a licensee to practice funeral directing and or embalming. A certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof.
- (17) **False or misleading advertising.** The use of false or misleading advertising or advertising a name other than the name the individual or establishment is licensed as.
- (18) **Failure to comply with Licensing Act.** Failure to comply with any applicable provisions of the Funeral Services Licensing act at the time of issuance or renewal or improper issuance or renewal of a license or registration.
- (19) **Child Support Statute.** Failure to comply with the child support statute provisions of 43 O.S. §139.1 et al.
- (20) **Selling of bodies or body parts.** No funeral establishment or any of its licensees, agents or employees shall accept, solicit, or offer to accept any payment, gratuity, commission or compensation of any kind for referring potential tissue donors to a tissue bank or tissue broker.
- (21) **Lack of Response.** Failure of a funeral service establishment, commercial embalming establishment, crematory, funeral director, embalmer, or apprentice to respond to a complaint within 10 days of receipt of the complaint or failure of a funeral service establishment, commercial embalming establishment, crematory, funeral director, embalmer or apprentice to comply with a Board subpoena. A signed proof of service shall be prima facie evidence of receipt.
- (22) **Obstruction of Investigation.** Destruction of evidence, tampering with or intimidating witnesses, or refusal to allow access to relevant files or facilities in any investigation.
- (23) **Forgery.** Creating a false document, fraudulently altering a document, or writing a false signature upon any document.
- (24) **Compromising Licensing Exam.** Being found to have cheated on, harvested test items from or disseminated copies of any licensing exam as determined by the administering body of the exam.
- (25) **Licensing Exam Invalidation.** Having test scores on a licensing exam invalidated as determined by the body administering the exam.
- (26) **Violation Of Any Of The Ethics Rules:**
- (a) The licensee shall be knowledgeable of and comply with all federal and state laws, rules, and codes applicable to the Funeral Service industry. It is the obligation of the licensee to exercise reasonable judgment and skill in the performance of all duties and

work performed as a licensee and to not as determined by the Board perform his or her duties in a negligent or incompetent manner. The licensee must perform his or her duties with honesty, integrity, and in a trustworthy manner.

(b) Integrity.

(i) A licensee shall be honest and trustworthy in the performance of all duties and work performed as a licensee and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission.

(ii) A licensee shall refrain from engaging in acts or practices that constitute threats, coercion, or extortion.

(iii) A licensee shall respect a consumer's right of personal choice and decisions with regard to making arrangements.

(c) The primary duty of the licensee is to ensure compliance with all applicable federal and state laws, rules, and codes. The licensee's position should be clear to all parties concerned while in the performance of all duties and work performed as a licensee.

(d) Specific Rules of Conduct.

(i) A licensee shall provide to consumers and prospective consumers, where applicable, all statutorily required documentation, pricing information, and any other information concerning funerals, cremations, burials, pricing, merchandise, and services provided by licensee.

(ii) A licensee shall protect from disclosure confidential information pertaining to the deceased or the family of the deceased except when requested by the Board .

(iii) A licensee shall account properly for and remit any monies, documents, or personal property that belongs to others that comes into the licensees' possession during the course of performance of licensee's duties.

(iv) A licensee shall not participate, whether individually or in concert with others, in any plan, scheme, or arrangement attempting or having as its purpose, which he/she knew or should have known was the evasion of any provision of the laws or the rules of the Board.

(v) A licensee shall not provide information he or she knew or should have known was inaccurate, deceitful, or misleading to the Board or a consumer while performing as a licensee.

(vi) A licensee shall not engage in any activity that constitutes dishonesty, misrepresentation, or fraud while performing as a licensee.

(27) **Aiding or abetting unlicensed practice.** Aiding or abetting an unlicensed person, establishment, or entity in the practice of funeral directing, embalming, cremation, or conducting business as a funeral establishment or crematory.

### **235:10-7-3 Enforcement**

(a) If a person violates any provision of the Funeral Services Licensing Act or any rule promulgated pursuant thereto, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both administrative penalties and sanctions in accordance with 59 O.S. §396.2a(11).

(b) the Administrative Penalties and Sanctions Schedule published following this section sets penalty limits and ranges by class of offense and number of offenses.

(c) The Board may negotiate a different penalty than outlined in the Administrative Penalties and Sanctions Schedule, in extenuating circumstances, based on the following factors:

- (1) Attempts by the licensee to correct or stop the violation;
  - (2) Number of complaints previously found justified against licensee;
  - (3) Whether the act was unintentional; and
  - (4) Other mitigating factors that could warrant a lower penalty.
- (d) Multiple violations of the Funeral Services Licensing Act or any rule promulgated pursuant thereto, may result in higher penalties. Multiple violations may consist of violation of more than one section of the law, numerous violations of the same section of the law, or a combination of both.
- (e) The Board may require a licensee to issue a refund to a consumer in lieu of or in addition to assessing an administrative penalty.

**(1) Class A.**

**(A) 1<sup>st</sup> violation: \$250**

**(B) 2<sup>nd</sup> violation: \$500**

**(C) 3<sup>rd</sup> violation: \$1,000**

**(D) 4+ violations: up to \$2,500 and/or sanction**

- (i)OAC 235:10-7-2(9) Failure to discharge a financial obligation
- (ii)OAC 235:10-7-2(15) Failure to submit application for establishment license
- (iii)OAC 235:10-7-2(18) Failure to comply with Licensing Act
- (iv)OAC 235: 10-7-2(19) Failure to comply with the Child Support Statute
- (v)OAC 235:10-7-2(25) Licensing exam invalidation

**(2)Class B.**

**(A) 1<sup>st</sup> violation: \$1,000**

**(B) 2<sup>nd</sup> violation: \$1,500**

**(C) 3<sup>rd</sup> violation: \$2,500**

**(D) 4+ violations: up to \$5,000 and/or sanction**

- (i)OAC 235:10-7-2(3) Failure to offer or provide a printed General Price List
- (ii)OAC 235:10-7-2(4) Failure to give itemized, written statement of Goods and Services
- (iii)OAC 235:10-7-2(11) Solicitation of business
- (iv)OAC 235:10-7-2(12) Reusing of caskets
- (v)OAC 235:10-7-2(13) Charging for merchandise not contracted for
- (vi)OAC 235:10-7-2(14) Failure to file any necessary permit in a timely manner
- (vii)OAC 235:10-7-2(17) False or misleading advertising
- (viii)OAC 235:10-7-2(21) Failure to comply with a Board subpoena
- (ix)OAC 235:10-7-2(22) Obstruction of a Board investigation

**(3)Class C.**

**(A) 1<sup>st</sup> violation: \$2,500**

**(B) 2<sup>nd</sup> violation: \$3,500**

**(C) 3<sup>rd</sup> violation: \$5,000**

**(D) 4+ violations: up to \$10,000 and/or sanction**

- (i)OAC 235:10-7-2(1) Material misrepresentation
- (ii)OAC 235:10-7-2(2) Criminal Actions
- (iii)OAC 235:10-7-2(6) Non-licensed Funeral Director
- (iv)OAC 235:10-7-2(7) Non-licensed embalming
- (v)OAC 235:10-7-2(8) Non-registered apprentice
- (vi)OAC 235:10-7-2(10) Desecration
- (vii)OAC 235:10-7-2(16) Suspension or Revocation of license in another state
- (viii)OAC 235:10-7-2(20) Selling of bodies or body parts



- (ix)OAC 235:10-7-2(23) Forgery
- (x)OAC 235:10-7-2(24) Compromising licensing exam
- (xi)OAC 235:10-7-2(26) Violation of any of the ethics rules
- (xii)OAC 235:10-7-2(27) Aiding or abetting unlicensed practice

## SUBCHAPTER 9. PROCEDURES FOR DISPOSITIONS OF CASES

### 235:10-9-1. Filing complaints

- (a) **Written complaints.** All complaints must be written, signed by the complainant, and submitted to the Executive Director of the Board.
- (b) **Records.** Upon receipt, each complaint submitted to the Executive Director shall be logged in a book maintained for that purpose. The logbook shall contain, in consecutive order, a record of each complainant's name and address, the name and address of the subject(s) of the complaint, and the date each complaint is received by the Board.
- (c) **Complainant.** Any person, including a Board member or a Board employee may file a complaint on matters of which he or she has direct personal knowledge.

### 235:10-9-2. Investigations

- (a) **Probable Cause Committee.** After a complaint has been filed, the Probable Cause Committee (consisting of the Executive Director and one Board member designated by the Executive Director) shall determine whether the complaint falls within the Board's jurisdiction, whether an investigation is warranted, and if warranted, shall direct the investigation to be made and a summary of the complaint sent to Board members.
- (b) **Acknowledgement.** Each complaint received shall be acknowledged in writing. This acknowledgment shall state that the complaint is being reviewed and the respondent is being given an opportunity to respond to the allegations made by the complainant.
- (c) **After response.** Upon receipt of a response by the respondent and, if after further investigation, it is necessary, the probable cause committee shall submit the information to the Board who will determine if there are reasonable grounds for belief that violation has occurred and make a determination if a hearing is warranted and, if warranted, shall schedule a hearing before the Board. The Probable Cause Committee may recommend to the Board informal disposition be made. The Executive Director shall properly notify the complainant and the respondent of such hearing. The Board member serving on the probable cause committee shall be recused from such hearing. If the Board determines that a hearing is not necessary, then both the respondent and the complainant shall be notified in writing that the complaint will be dismissed.
- (d) **Jurisdiction.** No investigation shall be made on any complaint concerning matters outside the jurisdiction of the Board.
- (e) **Emergency.** If the Board, upon review of the report of the Probable Cause Committee, finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of an original license or renewal, or both, may be ordered by the Board pending initiation of an individual proceeding. In such an event, the individual proceeding against the affected licensee shall be initiated within thirty (30) days after the date of the issuance of the summary suspension order.

### 235:10-9-3. Stipulation, Agreed Settlement, Consent Order, or Default

- (a) **Stipulation, Agreed Settlement, Consent Order or Default.** At the discretion of the Board, any complaint may be disposed of by a written, signed, and notarized Stipulation, Agreed Settlement, Consent Order, or Default entered into by the respondent and the Board.
- (b) **Statement of facts.** The Stipulation, Agreed Settlement, Consent Order, or Default shall contain a statement of facts agreed upon by both the respondent and the Board and the penalty to be imposed based upon the agreed to facts.

(c) **Not mandatory.** The Stipulation, Agreed Settlement, Consent Order, or Default is not mandatory, but once agreed to by the respondent and the Board, signed and notarized, and shall become final and binding on all parties.

#### **235:10-9-4. Legal counsel**

The respondent to a complaint shall be entitled to representation by legal counsel. All expenses for such legal counsel shall be paid by the respondent.

#### **235:10-9-5. Discussion**

After a complaint has been filed, all interested persons are prohibited from discussing the complaint with any member of the Board other than the Board member serving on the Probable Cause Committee or the hearing officer, if one has been designated.

#### **235:10-9-6. Time, place, and notice of hearing**

(a) **Hearing.** The hearing on a complaint shall be held at a time and place designated by the Board or the hearing officer, if one has been appointed.

(b) **Notice.** Notice of the time and place of the hearing shall be given the respondent and the complainant at least fifteen (15) days prior to the date of the scheduled hearing.

(1) **Notice contents.** The notice shall be written and shall specify the cause of complaint.

(2) **Date and time of hearing.** The notice shall state the time, date, and place of the hearing.

#### **235:10-9-7. Rules of evidence**

(a) **No formal rules.** Formal rules of evidence need not apply to hearing proceedings.

(b) **Rulings on admissibility of evidence.** The presiding officer or hearing officer may rule on the admissibility of any evidence submitted.

#### **235:10-9-8. Presiding officer**

The presiding officer for a complaint hearing may be any member of the Board designated by the president of the Board to preside over the hearing.

#### **235:10-9-9. Conduct of hearing**

(a) **When hearing required.** Any penalty imposed by the Board must be preceded by a hearing before the Board unless the complaint is disposed of by Agreement, Consent Order, or Statement of Default.

(b) **Administrative Procedures Act.** All hearings shall be conducted in accordance with the Administrative Procedures Act.

(c) **Hearing officer.** The Board may designate a hearing officer to conduct a hearing.

(1) **Hearing officer authority.** The hearing officer shall have the power and authority to conduct the hearing and shall conduct the hearing in the name of the Board.

(2) **Transcript.** Hearing may be transcribed upon the request of any party. All costs of such transcription shall be paid by the requesting party.

(d) **Quorum.** A hearing conducted by the Board shall be heard by no less than three voting members. All Board members are voting members unless recused.

(e) **Subpoena.** The Board or the Executive Director may issue, subpoenas for witnesses and evidence deemed necessary to conduct the hearing.

(f) **Transcript.** A respondent desiring a transcript of the hearing shall notify the Board in writing and bear the full cost of the transcription and copies.

(g) **Recuse.** If a member of the Board is a party to the complaint or would have a possible financial interest in the outcome of the hearing, the member shall be recused from the

proceedings. The Board member serving on the Probable Cause Committee shall be recused from the hearing.

(h) **Continuance.** Requests for continuance of a scheduled hearing must be filed in writing with the Executive Director of the Board at least forty-eight (48) hours, holidays and weekends excepted, prior to the time of the scheduled hearing, and the Executive Director may grant the continuance only for good and valid reasons.

(i) **Findings; order.** The Board shall make Findings of Fact and Conclusions of Law based on clear and convincing evidence at the close of a hearing, and shall enter an order thereon.

(1) The order shall be based upon the evidence presented at the hearing.

(2) A written notice of the order shall be given to the respondent.

(3) The notice of order shall be given upon written request to any person appearing at the hearing.

(j) **Record.** When the hearing is held before a hearing officer, the Board may issue its order based upon the record, including the findings of fact and conclusions of law recommended by the hearing officer. After the close of a hearing conducted by a hearing officer, the Board may require additional hearings or further evidence be presented prior to the issuance of the order.

### **235:10-9-10. Appeal of the order**

The respondent may appeal the Board's order to District Court, pursuant to the Administrative Procedures Act provided the appeal is filed within thirty (30) days after the issuance of the Board's Findings of Fact, Conclusions of Law, and Order.

### **235:10-9-11. Penalties available to the Board**

(a) **Board authority.** The Board shall be authorized, at its discretion, to take such action as the nature of the violation requires. In addition to any penalty listed below, the Board shall have the authority to impose on any person who violates any statutory or rule provision of the Oklahoma Funeral Board the payment of costs expended by the Board in investigating and prosecuting said cause. The costs may include but are not limited to staff time, salary and travel expenses, witness fees and attorney fees, and the same shall be considered part of the order of the Board.

(b) **Revoke licenses.** After holding a hearing, the Board may revoke any or all licenses, registrations, or certificates issued by the Board.

(c) **Lesser penalty.** After holding a hearing, the Board may impose any lesser penalty than those in (a) and (b) of this Section so long as it is reasonable.

(d) **Fines.** After holding a hearing, in addition to, or in lieu of, the penalties set forth in (a), (b), and (c) of this Section, the Board may imposed an administrative fine not to exceed \$10,000 for any related series of violations.

## **SUBCHAPTER 11. MINIMUM STANDARDS OF PERFORMANCE**

### **235:10-11-1. Minimum standards of performance**

(a) The following minimum standards of performance shall be required of each licensed embalmer in the State of Oklahoma in each instance in which he/she is authorized or required to embalm a dead human remains.

(1) **Licensed embalmer; licensed establishment.** The embalming procedure shall be performed only by licensed embalmers. Embalming shall be performed only in properly equipped and licensed funeral service establishment or commercial embalming establishments, in hospitals, or in such facilities as may be designated by the medical examiner or by the state health officials in the event of a disaster of major proportions. The embalmer may be assisted by a registered apprentice, or practicum student, or he

may supervise a registered apprentice or practicum student as the registered apprentice or practicum student performs the embalming procedure.

(2) **Protective devices.** In order to prevent the embalmer or registered apprentice from becoming unwitting carriers of pathogenic organisms into the community, they shall be required to utilize such protective devices as required by the OSHA Bloodborne Pathogen Standards.

(3) **Clothing.** Clothing exposed to contamination by pathogenic organisms shall either be burned or thoroughly cleaned and disinfected before delivery to any person, or before any further utilization.

(4) **Technique.** The technique utilized to effect eye, mouth, and lip closure shall be any technique accepted as standard in the profession. Regardless of the technique chosen, the embalmer shall be required to achieve the best results possible under the prevailing conditions.

(5) **Washing body.** The entire body shall be washed with an antiseptic soap or detergent. Fingernails, hair (including mustache and beard) shall be thoroughly cleaned and made presentable, either before or immediately after arterial injection.

(6) **Body orifices.** Body orifices (ears, nostrils, mouth, anus, and vagina) shall be treated with appropriate topical disinfectants either before or immediately after arterial injection.

(7) **Arterial fluid.** The arterial fluid to be injected shall be one commercially prepared and marketed.

(A) Liquid, semi-solid, and gaseous contents which can be withdrawn through a trocar shall be aspirated by the use of at least 18 inches (mercury) vacuum.

(B) Concentrated, commercially prepared cavity fluid containing preservative chemicals shall be injected and evenly distributed through the aspirated cavities.

(C) Should distention and/or purge occur after treatment, aspiration and injection as required above shall be repeated.

(8) **Hypodermic injection.** The embalmer shall be required to check each body thoroughly after treatment has been completed. Any area not adequately disinfected by arterial and/or cavity treatment shall be hypodermically injected with disinfectant fluid for maximum disinfection results.

(9) **Incomplete arterial circulation.** On bodies in which the arterial circulation is incomplete or impaired by advanced decompositions, burns, trauma, autopsy, or any other cause, the embalmer shall be required to hypodermically inject all areas which cannot be properly treated through whatever arterial circulation remains intact (if any).

(10) **High risk.** In the event that the procedures in of this Section leave a dead human body in a condition to constitute a high risk of infection to anyone handling the body, the embalmer shall be required to apply to the exterior surface of the body a standard embalming chemical, and to enclose the body in a zippered plastic or rubber pouch prior to burial or other disposal.

(11) **Not authorized.** Nothing in this Section shall be interpreted to require embalming if the next-of-kin does not authorize embalming.

(12) **Supplemental procedures.** Nothing in this Section shall be interpreted to prohibit the use of supplemental or additional procedures or chemicals which are known to be accepted in the funeral service profession which are not specifically mentioned in this section.

(13) **Disposal within 24 hours.** Unembalmed dead human bodies shall be legally disposed of within 24 hours after death unless the body is placed in a designated body refrigeration chamber which maintains a constant temperature of 40 degrees fahrenheit or less. The body shall remain in the refrigerated area until such time as legal disposition is to occur. Once removed from refrigeration, either embalming or disposition shall occur

within eight hours of said removal. No public viewing of unembalmed bodies shall be permitted 24 hours after death has occurred. Nothing in this section shall prevent a licensed establishment from requiring a viewing for the purpose of identification at such time as the establishment deems appropriate. Nothing in this section shall require a funeral home to purchase, install, or provide such refrigeration facilities not currently in existence and use.

(14) **Highest level of disinfection.** No funeral service establishment or licensed embalmer shall take into its care any dead human body for embalming without exerting every professional effort, and employing every possible technique or chemical, to achieve the highest level of disinfection and protein stabilization possible.

(15) **Variations.** Reasonable variations may be permitted as long as the objective stated in this Section is accomplished.

(b) The following minimum standards of performance shall be required of each licensed funeral director in the State of Oklahoma. The practice of funeral directing shall be construed to consist of the following functions, which may be performed only by a licensed funeral director.

- (1) Selling or offering to sell funeral services on an at-need basis.
- (2) Planning or arranging, on an at-need basis, the details of a funeral service with the family or friends of the decedent or any other person responsible for such service; setting the time of the service.
- (3) Establishing the type of service to be rendered.
- (4) Obtaining vital information for the filing of death certificates and obtaining necessary permits, provided that non-licensed personnel may assist the funeral director in performing such tasks.
- (5) Making, negotiating, or completing the financial arrangements for a funeral service on an at-need basis. The requirements of this subsection shall not prohibit any of the following:
  - (A) requiring a sales contract to be signed;
  - (B) requiring the signing of a promissory note for the balance of funeral services and/or merchandise charges due;
  - (C) requiring the signing of a chattel mortgage on real or personal property as security for the unpaid funeral services and/or merchandise charges; or
  - (D) making available to the party the services of a financial institution.
- (6) Directing, being in charge or apparent charge of, or directly supervising a visitation or viewing. Such function shall not require that a licensed funeral director be physically present throughout the visitation or viewing, provided that the funeral director is readily available by telephone for consultation.
- (7) Directing, being in charge or apparent charge of, or directly supervising, any funeral service held in a funeral establishment, cemetery, or elsewhere. The responsibility of the funeral director for the personal supervision of a dead human body shall end at the point when the following shall occur - when the remains or casketed remains is inaccessible to the public, to include but not limited to:
  - (A) the lid is placed on the outside enclosure or crypt;
  - (B) the casket is covered by earth if no outside enclosure is used; or
  - (C) the body is released to the next-of-kin or their authorized agent
  - (D) at the conclusion of any public or private ceremony, the dead human remains are accompanied by an employee, as evidenced by records of wages and hours, of a funeral service establishment until such time as the remains are inaccessible to the public. This provision shall not be construed to allow any conducting of services or direct care for the remains by an employee not holding respective funeral director's or embalmer's licenses. A funeral service establishment and funeral director shall be held strictly liable for the actions of

the employee and the employee's compliance with the requirements of the Funeral Services Licensing Act.

(8) Directing, being in charge or apparent charge of, or supervising, directly or indirectly, any memorial service contracted for.

(9) Using in connection with one's name or employment the words or terms "funeral director," "funeral establishment," "undertaker," "mortician," or any other word, term, title, picture or combination of any of the above, that when considered in the context in which used would imply that such person is engaged in the practice of funeral directing or that such person is holding himself or herself out to the public as being engaged in the practice of funeral directing; provided, however, that nothing in this paragraph shall prevent using the name of any owner, officer, or corporate director of a funeral establishment, who is not a licensee, in connection with the name of the funeral establishment with which such individual is affiliated, so long as such individual's affiliation is properly specified.

(c) The practice of funeral directing shall not be construed to consist of the following functions:

(1) The phoning in or faxing of obituary notices; ordering of flowers or merchandise; delivery of death certificates to attending physicians; or clerical preparation of death certificates, insurance forms, and any clerical tasks that record the information compiled by the funeral director or that are incidental to any of the functions specified above.

(2) Furnishing standard printed price lists and other disclosure information to the public by telephone or by providing such lists to persons making inquiry.

(d) The following minimum standards of performance shall be required of each licensed funeral service establishment and commercial embalming establishment in the State of Oklahoma

(1) **Discharge financial obligation.** A licensed funeral service establishment shall pay any vendor or third party obligation, within 90 days, that arises out of a Statement of Goods and Services that has been signed by the authorized person or shall satisfy a judgment rendered by a court of proper jurisdiction, within 90 days or as ordered by the court, in favor of a vendor or third party provider as designated on the Statement of Goods and Services or in connection with goods and services provided for a specific buyer.

(2) **Approved Place of Disposition.** A licensed funeral service establishment, or commercial embalming establishment shall only arrange for, prepare, and transport human remains to an approved place of final disposition. A new or established site shall have the legal next of kin assume the legal responsibility for the interment and also take the necessary precautions to secure that site to make it legal and lawful as an approved place of final disposition.

(3) **Retention of Documents.** A licensed funeral service establishment or commercial embalming establishment shall retain documentation related to the services performed, services and merchandise provided, and vital statistic information collected for no less than 5 years from the date of death or date of the statement of goods and services whichever is later.

**(4) Identification of Dead Human Bodies.**

In addition to the body intake log provided in Section 235:10-3-2 (5) (vii):

(A) A non-detachable bracelet attached at all times to the human remains shall identify each human remains in the possession or custody of the funeral establishment, commercial embalming establishment, or crematory in this state.

(B) The non-detachable bracelet must at a minimum contain the following information:

(i) First and last name of deceased

(ii) Date of Death

## **SUBCHAPTER 13. CONTINUING EDUCATION**

### **235:10-13-10. Continuing education requirements**

(a) Applicants for renewal of a funeral director or embalmer license in Oklahoma, shall submit the renewal fee and documentation as prescribed by the Board of each continuing education course the licensee attended during the year. Every licensed funeral director, and/or licensed embalmer, shall obtain a minimum of six (6) contact hours during each calendar year before their annual license renewal. One (1) contact hour shall be construed as 50 minutes of learning activity. In at least two (2) hours of this continuing education, the Licensee shall be physically present at the location of the Presentation. One (1) hour of the required continuing education shall cover Ethics.

(b) Each continuing education provider and course shall be approved by the: Academy of Professional Funeral Service Practice (the Academy), the funeral licensing Boards of Texas, Kansas, Arkansas, New Mexico, and Missouri, or by the Oklahoma Funeral Board based on criteria similar to those established by the Academy. The Board shall not charge duplicate fees to review provider applications or courses approved by the Academy or the funeral licensing Boards of Texas, Kansas, Arkansas, New Mexico, and Missouri.

(c) A licensee may not receive credit for repeating the same course during the same calendar year. A maximum of six (6) hours may be carried over and applied to the required hours for the following year.

(d) Individuals issued original or reciprocal licenses shall complete the continuing education requirements in the first full calendar year following the issuance of an original or reciprocal license.

### **235:10-13-11. Continuing education program approval**

(a) The continuing education program provider must possess professional credentials appropriate to the subjects covered in the program, and the program must contain demonstrable educational content related to the practice of funeral directing and/or the practice of embalming as determined by the Board.

(b) The continuing education provider seeking Board approval shall pay a \$250 fee with the completed Uniform Continuing Education Application Process Form and \$50 per course submitted for Board approval. The Board may waive the fees for governmental agencies and non-profit organizations. Providers shall submit the completed application and fees for Board evaluation at least sixty (60) days prior to administering the course.

(c) Contact hours are not allowed for activities such as social occasions, meals, receptions, sporting events, business meetings, sales meetings, or exhibits displayed at such activities. If a provider wishes to offer a continuing education course at such an activity, then the provider shall be required to seek Board approval for that particular course. Continuing education received for renewal of an insurance license shall not qualify as contact hours for purposes of funeral director or embalmer license renewal.

(d) Approved contact hours may include programs in various formats such as: lecture, workshops, seminars, conferences, independent home study, and internet based programs. A continuing education program must fall within one or more of the following for categories of funeral service related content areas for approval:

- (1) Public Health and Technical including: embalming, restorative art, etc.
- (2) Business Management including computer applications, marketing, personnel management, accounting, or comparable subjects.
- (3) Social Science including communications skills, both written and oral, sociological factors, counseling, grief psychology or comparable subjects.
- (4) Legal, Ethical, Regulatory including: OSHA, FTC, ethical issues, legal interpretations or comparable subjects.

### **235:10-13-12. Exemptions**

- (a) Licensees exempt from payment of renewal fees under 235:10-5-2 shall be exempt from all continuing education requirements for the first full calendar year after which they have completed their period of military service.
- (b) A licensee of Oklahoma not engaged in the practice of funeral directing or the practice of embalming within the State of Oklahoma shall be exempt from the Board's continuing education requirements. If the licensee becomes engaged in the practice of funeral directing or the practice of embalming within the State of Oklahoma, the licensee shall within the first full year of active practice meet the continuing education requirements.
- (c) Any licensee with a serious illness or disability shall notify the Board and request an exemption not less than thirty (30) days prior to the expiration of the license. The letter of request must include documentation from the licensee's physician to verify the illness or disability. The Board shall have the power to review the request for exemption of all or a portion of the Board's continuing education requirements on a case by case basis.
- (d) Licensees who will be 65 years of age or older anytime during the calendar year being renewed for are not required to meet the continuing education requirements. This exemption shall not apply to licensees who are the Funeral Director in Charge of one or more funeral establishments.

### **235:10-13-13. Verification of Continuing Education**

- (a) Each licensee shall obtain from the continuing education provider proof of attendance at the approved continuing education program which shall include: name of attendee, provider name and provider number, event number, event date, program title, and contact hours attended. The licensee shall maintain such documentation for a period of not less than two (2) years.
- (b) The Board or its authorized representatives may monitor, inspect, or review any approved continuing education activity, and upon evidence of significant variations in the program presented from the program approved, may disapprove any or all of the approved hours granted to the activity.

### **235:10-13-14. Non-compliance and sanctions**

The Board shall not renew a licensee's funeral director or embalmer license if the licensee has not complied with the continuing education requirements, until the required fees, late fees, and continuing education requirements are met unless waived by the Board.

## **SUBCHAPTER 14. CREMATORIES**

### **235:10-14-1. Requirements**

- (a) Unembalmed human remains awaiting cremation must be placed in refrigerated storage at 40 degrees Fahrenheit or less. All crematories shall have refrigerated storage facilities with a capacity equal to or greater than their average daily case load. If storage facilities are full, additional remains should not be accepted. Human remains shall never be stacked or placed upon other human remains. For purposes of this rule stacked shall mean in direct contact with one body on top of the other body. Storage facilities should not be in public view.
- (b) From receiving through storage, cremation, processing, packaging and release, proper identification must accompany the remains at all times.
- (c) Crematories licensed by the Funeral Board shall be used exclusively for the cremation of human remains.
- (d) Upon completion of the cremation, and insofar as practicable, all of the recoverable residue of the cremation process shall be removed from the cremation chamber. If possible, the noncombustible materials or items shall be separated from the cremated remains and disposed of, in a lawful manner, by the crematory. The cremated remains shall be reduced by motorized mechanical device to granulated appearance appropriate for final disposition.



- (e) The cremated remains with proper identification shall be placed in a temporary container or urn, unless specific written authorization has been received from the authorizing agent which directs otherwise.
- (f) If the cremated remains will not fit within the dimensions of a temporary container or urn, the remainder of the cremated remains shall be returned to the authorizing agent or its representative in a separate container attached to the first container or urn identifying such containers as belonging together.
- (g) The walls and floor of the cremator work area must be constructed, and of such materials, and finished in a way that they may be cleaned and disinfected.
- (h) The Crematory area shall not have a passageway for public use.
- (i) Cremation log will be maintained by the crematory that contains the following:
  - (1) Name of deceased
  - (2) Name and address of Authorized Representative
  - (3) Cremation permit number from the Oklahoma Medical Examiner's Office
  - (4) Cremation date
  - (5) Funeral home or commercial embalming establishment handling cremation
- (j) No human remains may be cremated without first obtaining a cremation permit from the proper agency of the state where death occurred.
- (k) Identification of Dead Human Bodies. In addition to the cremation log provided in Section 235:10-14-1 (i):
  - (1) A non-detachable bracelet attached at all times to the human remains shall identify each human body in the possession or custody of the funeral establishment, commercial embalming establishment, or crematory in this state.
  - (2) The non-detachable bracelet must at a minimum contain the following information:
    - (E) First and last name of deceased
    - (F) Date of Death
- (l) Each crematory machine shall successfully complete preventative maintenance & safety inspection by a Board-approved vendor and provide proof of inspection and maintenance annually with renewal.

## **SUBCHAPTER 15. ADVERTISING**

### **235:10-15-1. Purpose**

The purpose of the rules of this Subchapter is to prohibit false, misleading, or deceptive practices by a person or entity subject to the rules of the Board.

### **235:10-15-3. False or misleading advertising**

No licensee shall publish or disseminate false, misleading, or deceptive advertising. An advertisement may not contain statements;

- (1) containing a misrepresentation of facts;
- (2) likely to mislead or deceive because in context the statements make only a partial disclosure of relevant facts;
- (3) relating to fees without reasonable disclosure of all relevant variables so that the statement would not be misunderstood or be deceptive to laypersons;
- (4) any name other than the name the establishment or individual is licensed as;
- (5) using the name "crematory" in conjunction with a funeral establishment or commercial embalming service when the establishment or embalming service does not hold a crematory license and the crematory is not located on-site.