Rhode Island Department of Health

PUBLIC NOTICE

The Director of the Rhode Island Department of Health has determined to amend the rules and regulations listed below to remove the specific dollar value of all fees for licensing, laboratory and administrative services provided by the Department of Health from the individual regulations and reference all such fees to a new consolidated fee regulation (to be promulgated separately). These amendments are proposed pursuant to the authority contained in Public Law 2012-241, enacted by the General Assembly on 15 June 2012, and the relevant sections of the respective professional practice and licensure acts.

The following seventy-five (75) regulations are proposed to be amended:

1. Food Code
2. Rules and Regulations Establishing Educational and Experience Requirements for Registration as a Sanitarian
3. Rules and Regulations for Asbestos Control
4. Rules and Regulations for Bottled Water
5. Rules and Regulations for Certifying Analytical Laboratories
6. Rules and Regulations for Determination of Need for New Health Care Equipment and New Institutional Health Services
7. Rules and Regulations for Lead Poisoning Prevention
8. Rules and Regulations for Licensing Assisted Living Residences
9. Rules and Regulations for Licensing Athletic Trainers
10. Rules and Regulations for Licensing Birth Centers
11. Rules and Regulations for Licensing Chemical Dependency Professionals
12. Rules and Regulations for Licensing Clinical Laboratories and Stations
13. Rules and Regulations for Licensing Clinical Social Workers and Independent Clinical Social Workers
14. Rules and Regulations for Licensing Doctors of Acupuncture and Acupuncture Assistants
15. Rules and Regulations for Licensing Home Nursing Care Providers and Home Care Providers
16. Rules and Regulations for Licensing Hospice Care
17. Rules and Regulations for Licensing Interpreters for the Deaf
18. Rules and Regulations for Licensing Kidney Disease Treatment Centers
19. Rules and Regulations for Licensing Massage Therapists
20. Rules and Regulations for Licensing Mental Health Counselors and Marriage and Family Therapists
21. Rules and Regulations for Licensing Occupational Therapists and Occupational Therapy Assistants
22. Rules and Regulations for Licensing of Hospitals
23. Rules and Regulations for Licensing of Midwives
24. Rules and Regulations for Licensing of Nursing Facilities
25. Rules and Regulations for Licensing of Nursing Home Administrators
26. Rules and Regulations for Licensing Physical Therapists and Physical Therapist Assistants
27. Rules and Regulations for Licensing Psychologists
28. Rules and Regulations for Licensing Rehabilitation Hospital Centers

29. Rules and Regulations for Licensing Respiratory Care Practitioners
30. Rules and Regulations for Licensing Speech Pathologists and Audiologists
31. Rules and Regulations for Licensing Swimming and Wading Pools, Hot Tubs, and Spas
32. Rules and Regulations for Licensure and Discipline of Chiropractic Physicians
33. Rules and Regulations for Limited Medical Registration
34. Rules and Regulations for Radon Control
35. Rules and Regulations for the Certification of Administrators of Assisted Living Residences
36. Rules and Regulations for the Certification of Health Plans
37. Rules and Regulations for the Control of Radiation
38. Rules and Regulations for the Licensing of Freestanding Ambulatory Surgical Centers
39. Rules and Regulations for the Licensing of Freestanding Emergency Care Facilities
40. Rules and Regulations for the Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs
41. Rules and Regulations for the Licensing of Nursing Service Agencies
42. Rules and Regulations for the Licensing of Organized Ambulatory Care Facilities
43. Rules and Regulations for the Licensing of Podiatrists
44. Rules and Regulations for the Licensing of Radiographers, Nuclear Medicine Technologists, Radiation Therapists and Radiologist Assistants
45. Rules and Regulations for the Licensure and Discipline of Physicians
46. Rules and Regulations for the Licensure of Barbers, Hairdressers/Cosmeticians, Manicurists, Estheticians, and Instructors
47. Rules and Regulations for the Licensure of Clinical Laboratory Science Practitioners
48. Rules and Regulations for the Licensure of Physician Ambulatory Surgery Centers and Podiatry Ambulatory Surgery Centers
49. Rules and Regulations for the Licensure of Physician Assistants
50. Rules and Regulations for the Licensure of Veterinarians
51. Rules and Regulations for the Registration of Body Piercing Technicians and Body Piercing Establishments
52. Rules and Regulations for the Registration of Distributors of Controlled Substances in Rhode Island
53. Rules and Regulations for the Registration of Tanning Facilities
54. Rules and Regulations for the Registration of Tattoo Artists and Tattoo Parlors
55. Rules and Regulations for the Utilization Review of Health Care Services
56. Rules and Regulations Governing Vital Statistics
57. Rules and Regulations Pertaining to Certification of Managers in Food Safety
58. Rules and Regulations Pertaining to Dentists, Dental Hygienists, and Dental Assistants
59. Rules and Regulations Pertaining to Embalmers, Funeral Directors, and Funeral Service Establishments
60. Rules and Regulations Pertaining to Opticians
61. Rules and Regulations Pertaining to Optometrists
62. Rules and Regulations Pertaining to Permits for Screening Programs
63. Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers, and Distributors
64. Rules and Regulations Pertaining to Public Drinking Water
65. Rules and Regulations Pertaining to Rhode Island Certificates of Registration for Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs
66. Rules and Regulations Pertaining to the Certification of Public Drinking Water Supply Treatment and Public Water Supply Transmission and Distribution Operators

67. Rules and Regulations Pertaining to the Licensing of Dietitians/Nutritionists
68. Rules and Regulations Pertaining to the Medical Examiner System
69. Rules and Regulations Pertaining to the Newborn Metabolic, Endocrine, and Hemoglobinopathy Screening Program and the Newborn Hearing Loss Screening Program
70. Rules and Regulations Pertaining to the Processing and Distribution of Shellfish
71. Rules and Regulations Prescribing Minimum Standards for Processing, Storage and Transportation of Fish and Fishery Products
72. Rules and Regulations Related to the Licensure of Hearing Aid Dealers and Fitters
73. Rules and Regulations Related to the Medical Marijuana Program
74. Rules and Regulations Related to the Practice of Electrolysis
75. Rules and Regulations Relating to Emergency Medical Services

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Notice is hereby given in accordance with the provisions of §42-35-3(a)(2) of the Rhode Island General Laws, as amended, that the Director is affording all interested persons the opportunity to submit data, views, or arguments in writing on this matter. Opportunity for public hearing shall be granted if requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members. *Otherwise, no hearing shall be convened*. Should a hearing be requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members, *a hearing shall be scheduled only for the regulation(s) for which the request for hearing was received*. All regulations for which a public hearing is not requested will be filed with the Rhode Island Secretary of State pursuant to Chapter 42-35 of the Rhode Island General Laws, as amended, shortly after the 10 September 2012 deadline (as below).

Such input or requests for public hearing must be received in writing **no later than Monday, 10 September 2012**. Such input or requests should be addressed to: Michael Fine, M.D., Director, Rhode Island Department of Health, Three Capitol Hill, Room #401, Providence, Rhode Island 02908-5097.

In the development of these amendments, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach, duplication, or overlap was identified based upon available information.

Copies of all regulations are available for public inspection in the Cannon Building, Room #201, Rhode Island Department of Health, Three Capitol Hill, Providence, Rhode Island 02908-5097, on the Secretary of State's website: http://www.sos.ri.gov/rules/, by calling 401-222-7767, or by e-mail to Bill.Dundulis@health.ri.gov.

Signed this 3rd day of August 2012

Original signed by Michael Fine, MD

Michael Fine, M.D., Director of Health

RULES AND REGULATIONS PERTAINING TO

EMBALMERS, FUNERAL DIRECTORS AND

FUNERAL SERVICE ESTABLISHMENTS

(R5-33.2-EMB)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Health

September 1997

As Amended:

November 2001

January 2002 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

December 2003

January 2007 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

September 2007

June 2008

January 2012 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

August 2012 (Proposed)

COMPILER'S NOTES:

Proposed Additions: Underlined

Proposed Deletions: ~~Strikeouts~~

INTRODUCTION

These *Rules and Regulations Pertaining to Embalmers, Funeral Directors and Funeral Service Establishments (R5-33.2-EMB*) are promulgated pursuant to the authority conferred under Sections 5-33.2 and 42-35-3 of the General Laws of Rhode Island, as amended. These regulations are established for the purpose of adopting prevailing standards for the licensing of embalmers, funeral directors and funeral service establishments.

In accordance with the provisions of Section 42-35-3(c) of the General Laws of Rhode Island, as amended, consideration was given in arriving at these regulations to: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. Based on the available information, no known alternative approach, duplication, or overlap was identified. The protection of the health, safety and welfare of the public necessitates the adoption of these regulations.

These rules and regulations shall supersede any previous rules and regulations pertaining to the licensing of embalmers, funeral directors, and funeral service establishments promulgated by the Department of Health and filed with the Secretary of State.

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PART I ***Definitions and Licensing Procedures***

Section 1.0 ***Definitions***

Whenever used in these rules and regulations, the following terms shall be construed as follows:

1.1 ***"Alternative container"*** means a receptacle, other than a casket, in which human remains are transported to the crematory and placed in the cremation chamber for cremation. An alternative container shall be: (1) composed of readily combustible materials suitable for cremation; (2) able to be closed in order to provide a complete covering for the human remains that is resistant to leakage or spillage; (3) rigid enough for handling with ease; and (4) able to provide protection for the health, safety, and personal integrity of crematory personnel.

1.2 "***Authorizing agent***" means a person legally entitled to authorize the cremation of human remains.

1.3 ***"Board"*** shall mean the State Board of Funeral Directors/Embalmers.

1.4 ***"Body parts"*** means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion of bodies that have been donated to science for medical research purposes.

1.5 ***"Burial transit permit"*** means a permit for disposition of a dead human body as required by state legal requirements.

1.6 ***"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 and which may or may not be combustible.

1.7 ***"Cremated remains"*** means all remains of the cremated human body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions, and which may possibly include the residue of any foreign matter including casket material, bridgework, or eyeglasses, that were cremated with the human remains.

1.8 ***"Cremation"*** shall mean a two (2) part procedure whereby a dead human body or body parts shall be reduced by direct flame to residue which includes bone fragments and the pulverization of said bone fragments to coarse powdery consistency.

1.9 ***"Cremation authority"*** means the legal entity or the authorized representative of the legal entity which is licensed by the state to operate a crematory and perform cremation.

1.10 ***"Cremation chamber"*** means the enclosed space within which the cremation takes place. Cremation chambers as regulated herein shall be used exclusively for the cremation of human remains.

1.11 ***"Cremation container***" means a container in which human remains are transported to the crematory and placed in the cremation chamber for a cremation. A cremation container should

meet substantially all of the following standards: be composed of readily combustible material suitable for cremation; be able to be closed in order to provide a complete covering for the human remains; be resistant to leakage or spillage; be rigid enough for handling with ease, and be able to provide protection for the health, safety and personal integrity of crematory personnel.

1.12 ***"Department"*** shall mean the Rhode Island Department of Health.

1.13 ***"Director"*** means the Director of the Rhode Island Department of Health.

1.14 ***"Embalmer"*** shall mean any person who has completed:

(i) an internship;

(ii) full course of study at an accredited mortuary science school;

(iii) has passed the national board examination and the practical examination administered by the Board; and

(iv) is engaged in the practice or profession of embalming, as hereinbefore defined.

1.15 ***"Embalming"*** shall mean the practice, science or profession of preserving, disinfecting, and preparing in any manner, dead human bodies for burial, cremation or transportation.

1.16 ***"Funeral"*** shall mean a period following death in which there are religious services or other rites or ceremonies with the body of the deceased, including cremated remains, present.

1.17 ***"Funeral directing"*** shall mean:

(i) conducting funeral services; or

(ii) the arrangement for disposition of dead human bodies, except in the case of any religion where the preparation of the body or the provision of funeral services should be done according to religious custom or belief;

(iii) Only funeral directors/embalmers, working for a duly licensed funeral establishment, shall be allowed to meet with families for the purpose of arranging funerals.

(iv) Any person who assumed an ownership interest from one's spouse or any widow or widower of a licensed funeral director who, as of 1 November 1995, has been meeting with families to arrange for the conducting of funeral services shall be allowed to continue this practice.

1.18 ***"Funeral director/embalmer"*** shall mean any person engaged, or holding himself or herself out as engaged in the practice, or profession of funeral directing, and the science, practice or profession of embalming as herein before defined, including a funeral director of record, who may be a funeral director at more than one (1) establishment or any other word or title intending to imply or designate him or her as a funeral director/embalmer, undertaker, or mortician. The holder of this license must be the holder of an embalmer's license.

1.19 ***"Funeral director/embalmer intern"*** shall mean any person engaged in learning the practice or profession of funeral directing and the science, practice or profession of embalming under the instruction and supervision of a funeral director/embalmer duly licensed and registered under the provisions of Chapter 5-33.2 of the General Laws of Rhode Island, as amended, and actively engaged in the practice, or profession of funeral directing and embalming in this state.

1.20 ***"Funeral establishment"*** shall mean a fixed place, establishment or premises, licensed by the Department, devoted to the activities which are incident, convenient, or related to the care and preparation, arrangement, financial and otherwise, for the funeral, transportation, burial or other disposition of human dead bodies and including, but not limited to, a suitable room with all instruments and supplies used for the storage and/or preparation of dead human bodies for burial or other disposition.

1.21 ***"Funeral merchandise"*** shall mean those items which are normally presented for sale as part of the funeral home operation on a for-profit basis. These items include: caskets, sealed warranted outer burial containers and burial clothing. Items not included are urns, grave markers, and non-sealed outer burial containers.

All persons engaged in the sale of funeral merchandise must comply with the provisions of Chapter 5-33.1 of the General Laws of Rhode Island, as amended.

1.22 "***Funeral planning agent***" means a person who is at least eighteen (18) years of age, who has been duly and lawfully designated, and who has accepted the designation, to act for the principal, and who has authority and responsibility to make all arrangements, regarding funeral preparation, planning, the nature of the funeral goods and services to be provided, the manner in which funeral services are to be conducted, burial, and/or the disposition of the principal's remains, including cremation, upon the death of the principal. The funeral planning agent may be a relative or a non-relative of the principal, except as otherwise provided for in section 5-33.3-3(d) of the Rhode Island General Laws, as amended.

1.23 ***"Holding facility"*** means an area within or adjacent to the crematory facility designated for the retention of human remains prior to cremation that shall: comply with any applicable health law; preserve the dignity of the human remains; recognize the integrity, health and safety of the crematory authority personnel operating the crematory, and be secure from access by anyone other than authorized personnel.

1.24 ***"Licensing agency"*** shall mean the Department of Health.

1.25 ***"Person"*** shall include individuals, partnerships, corporations, limited liability companies, associations and organizations of all kinds.

1.26 ***"Practice of funeral service"*** shall mean a person engaging in:

(i) providing shelter, care and custody of human dead remains;

(ii) the practice of preparing of the human dead remains by embalming or other methods for burial or other disposition;

(iii) entering into a funeral service contract; and

(iv) engaging in the functions of funeral directing and/or embalming, as presently known, including those stipulated in Chapter 5-33.2 of the General Laws of Rhode Island, as amended, and as defined in the Federal Trade Commission's "funeral rule" of reference 1.

1.27 ***"Niche"*** means a compartment or cubicle for the memorialization or permanent placement of a temporary container or urn containing cremated remains.

1.28 "***OSHA***" means the federal Occupational Safety and Health Administration.

1.29 ***"Processing"*** means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual means.

1.30 ***"Pulverization"*** means the reduction of identifiable bone fragments after the completion of the cremation and processing to granulated particles by manual or mechanical means.

1.31 ***"Rental casket"*** means a casket that may be re-used in accordance with these rules and regulations.

1.32 ***"Temporary container"*** means a temporary container that is a receptacle for cremated remains usually made of cardboard, plastic, or similar material designed to hold the cremated remains until an urn or other permanent container is acquired.

1.33 ***"Urn"*** means a receptacle designed to permanently encase the cremated remains.

Section 2.0 ***Qualifications of Funeral Directors/Embalmers***

Requirements for Licensure

2.1 A funeral director/embalmer's license shall be issued only to an individual. No corporation, partnership, association, limited liability company or organization shall be entitled to obtain such a license.

Qualifications for Licensure

2.2 In order to qualify for a funeral director/embalmer's license, the applicant must meet the following requirements:

(i) be at least eighteen (18) years of age;

(ii) be a citizen of the United States or have lawful entry into the country;

(iii) show to the satisfaction of the Division that he/she is of good moral character;

(iv) be a high school graduate or its equivalent;

(v) on and after 1 January 1996, have graduated from a school of mortuary science accredited by the American Board of Funeral Service Education, Inc.;

(vi) on and after 1 January 1996, must have at least an associate degree or the equivalent of sixty (60) semester hours from an approved college or university or be currently enrolled in a school accredited by the American Board of Funeral Service Education, Inc.;

(vii) have completed a registered funeral director/embalmer internship;

(viii) have satisfactorily passed the funeral director and embalmer portions of the written examination of the Conference of Funeral Service Examining Boards;

(ix) have satisfactorily passed a practical examination as the Board may deem proper to ascertain his or her efficiency and qualifications to engage in the business of funeral directing and embalming;

(x) Upon the effective date of these regulations, all individuals holding an embalmer and/or funeral director license will be issued a funeral director/embalmer license upon payment of the required annual license renewal fee.

(xi) At a minimum, the name and title of the funeral director/embalmer registered with the Department as the licensee in charge of the funeral establishment or funeral establishment branch shall appear in all printed advertising.

Licensure by Endorsement

2.3 Any funeral director/embalmer who is currently licensed in good standing in another state may be licensed by endorsement in Rhode Island.

2.4 Every funeral director/embalmer seeking such licensure by endorsement shall meet all of the requirements in section 2.2 above with the exception of subsection (vii).

2.5 Furthermore, every funeral director/embalmer must comply with all requirements of Chapter 5-33.2 of the Rhode Island General Laws, as amended.

2.6 Anyone licensed in another state prior to 1985 is hereby exempt from the National Board Examination requirements set forth in this section.

Armed Forces Embalming Experience

2.7 Any person who has:

(i) served in, and been honorably discharged from, the U.S. Armed Forces; and

(ii) prior to his/her induction into the Armed Forces, completed high school and a full course of instruction in a funeral director/embalming school, as provided in section 5-33.2-6 of the Rhode Island General Laws, as amended; and

(iii) prior to that induction commenced his/her internship, as provided in section 5-33.2-6 of the Rhode Island General Laws, as amended; and

(iv) while in the Armed Forces, assisted in the embalming of human bodies,

shall be conclusively presumed to have been continuing that course of training during the time he/she was so engaged in assisting in embalming human bodies while in the Armed Forces, and all bodies in the embalming of which he/she assisted, while in the Armed Forces, shall be deemed to have been embalmed during his/her internship, and in compliance with the provisions of section 5-33.2-6 of the Rhode Island General Laws, as amended.

2.8 Each such person described in section 2.7 shall submit to the Division proof of his/her having assisted in the embalming of bodies while in the Armed Forces, and of the number thereof, by filing with the Division his/her sworn affidavit of the facts relating thereto, which shall, in the absence of specific proof to the contrary, be presumed to be true and authentic.

Unlicensed Practice

2.9 In this state, it shall be unlawful for any person to engage in, conduct, or hold himself/herself out as engaged in the practice of funeral directing and/or embalming, or of preparing for or disposing of dead human remains by any means whatever, or preserving in any manner, dead human bodies, unless he/she holds a funeral director/embalmer's license issued in accordance with the provisions of the regulations herein; and

2.10 It shall be unlawful for any person, partnership, association, corporation, limited liability company, or other organization to open or maintain a place or establishment at which to engage in or conduct, or hold himself/herself/itself out as engaging in or conducting the business of funeral directing without that place or establishment being duly licensed under the provisions of these regulations as a funeral establishment.

2.11 Notwithstanding the provisions of this section, a person under the supervision of a licensed funeral director/embalmer shall be allowed to fulfill duties not specifically prohibited by Chapter 5-33.2 of the General Laws, as amended, and those duties allowed by the Federal Trade Commission "Funeral Rule" of reference 1.

Section 3.0 ***Burial Certificate Plan***

3.1 No person who has promoted or is promoting, or has participated in or is participating in any scheme or plan in the nature of a burial association or a burial certificate plan, or wherein there is any element of fraud, shall be entitled to any license under the provisions of these regulations.

3.2 The Board shall revoke the license of any holder thereof who has engaged, directly or indirectly, in the practices enumerated in this section.

3.3 Nothing herein shall be construed so as to prevent any such person from performing his/her obligations under any contract executed prior to April 25, 1952.

Section 4.0 ***Cemetery Operations***

4.1 Any person(s), association or corporation having charge of, or conducting a cemetery, shall not engage in the business of funeral directing.

4.2 No funeral home will be licensed, nor will it be permitted to operate as such, if it is located on property owned by a cemetery, or is contiguous with cemetery property.

Section 5.0 ***Application and Renewal of License***

5.1 Any person who desires to engage in embalming or funeral directing, or both, shall submit in writing to the Division, an application for a license.

5.2 Said application shall be accompanied by a fee ~~of one hundred thirty dollars ($130.00) payable to the General Treasurer, state of Rhode Island.~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

Expiration & Renewal of Licenses

5.3 All licenses issued under the provisions of these regulations shall be renewed annually by the holders thereof. All licenses shall expire on the thirty-first (31st) day of December each year, unless previously suspended or revoked.

5.4 Each licensee shall pay to the Division a yearly fee ~~of one hundred thirty dollars ($130.00)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory*

and Administrative Services Provided by the Department of Health for the renewal of the funeral director/embalmer's license.

5.5 Applications, accompanied by the renewal fee, shall be filed with the Division on or before the thirty-first day of December in each year.

5.5.1 Applications filed after the thirty-first day of December, and on or before the fifteenth day of January, must be accompanied by a fee ~~of seventy dollars ($70.00)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* in addition to the renewal fee cited above.

5.6 Any funeral director/embalmer who acts or holds himself/herself out as such after his/her license has lapsed shall be punished as provided herein.

Continuing Education Requirements

5.7 Every funeral director/embalmer shall be required to participate in a total of five (5) hours annually of continuing education training of which three (3) hours are mandated by annual OSHA training.

5.7.1 Said five (5) hours of annual training shall be required for renewals issued as of January 1, 2008.

5.8 On application for renewal of license, a funeral director/embalmer shall attest to completion of five (5) hours annually in scope of practice-specific offerings that may include, but not be limited to: formal presentations, conferences, and/or self-study courses, such on-line courses. Such programs or offerings shall be approved or sponsored by a Board-approved organization (see section 5.9 below).

5.9 Two (2) of the five (5) hours of continuing education may be selected from programs or offerings sponsored or approved by the following organizations that are deemed to be approved by the Board:

- Rhode Island Funeral Directors Association (RIFDA);
- National Conference for Funeral Board Examiners;
- Academy of Professional Funeral Service Practice (APFSP);
- Or others as may be approved by the Board.

5.10 It shall be the sole responsibility of the funeral director/embalmer to obtain documentation (e.g., course descriptions, proof of attendance) from the sponsoring organization, agency, or institution of his/her participation in a continuing education program and/or activity. These documents shall be retained by each licensee for no less than two (2) years and are subject to random audit by the Department.

5.11 A licensee who fails to complete the continuing education requirements described herein may be subject to disciplinary action pursuant to section 5-33.2-17of the Act.

5.12 A license may be denied to any applicant who fails to provide satisfactory evidence of completion

of continuing education relevant to the practice of a funeral director/embalmer as required herein.

5.13 A funeral director/embalmer initially licensed by examination after the December 31st renewal date shall be exempt from the continuing education requirements stated herein until the date of the next renewal cycle (i.e., January 1st of the next year).

5.14 An extension of time to complete the continuing education requirements may be granted to a funeral director/embalmer solely at the discretion of the Board for reasons of hardship or other extenuating circumstances.

Display of Licenses

5.15 Every license issued as a funeral director/embalmer shall specify the name of the person to whom it was issued. It shall be displayed conspicuously in his/her place of business or employment and it shall not be transferable.

Section 6.0 ***Funeral Director/Embalmer Internship***

6.1 Nothing in this section shall be construed as prohibiting any person from serving as a funeral director/embalmer intern.

6.2 Before an internship shall begin, the person desiring to become an intern shall register on forms prescribed by the Division.

6.3 No person under the age of eighteen (18) years shall be permitted to register as an intern.

6.4 All persons registering as an intern shall pay a fee ~~of forty dollars ($40.00)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* at the time of such registration.

6.5 No intern shall be permitted to advertise or hold himself/herself out to the public as a registered funeral director/embalmer.

6.6 The term of internship shall be not less than one (1) year; provided, however, that if an intern, after having served his/her internship, fails to pass the examination for a funeral director/embalmer's license or fails to embalm fifty (50) human remains during his/her internship, he/she may continue the internship. The total term of internship must be completed within five (5) years from the date of original registration.

6.6.1 Prior to a practical state licensing embalming examination being administered by members of the Board in consultation with the funeral director/embalmer preceptor, a written consent to perform the state licensing embalming examination shall be obtained by the funeral director/embalmer preceptor from the decedent's next-of-kin or other person legally charged with the disposition of the human remains.

6.6.2 A quarterly report shall be submitted to the Division summarizing the number of human remains embalmed by the intern during the most recent three (3) month period.

6.6.3 The intern must have assisted in embalming at least fifty (50) bodies if the period for registered internship is to be satisfied in one (1) year.

6.6.4 If the internship is for more than one (1) year, the applicant must embalm at least twenty-five (25) bodies for each year of the internship.

6.7 The term of internship may be served before, after, or during attendance at mortuary school, at the option of the intern and the preceptor.

6.8 Each licensed funeral establishment embalming up to one hundred-fifty (150) human remains per year shall be allowed to register one (1) intern at one (1) time.

6.9 Each establishment embalming more than one hundred-fifty (150) but less than three hundred (300) human remains per year shall be allowed to register two (2) interns at one (1) time.

6.10 Each establishment embalming three hundred (300) or more human remains per year shall be allowed to register three (3) interns at one (1) time.

6.10.1 If more than one (1) intern is completing an internship with a funeral director/embalmer preceptor, each intern shall be responsible for embalming no less than fifty (50) human remains, as stipulated in section 6.6 above; further, each set of human remains shall only be counted once towards the required total for each intern.

Supervision of Interns

6.11 While an embalmer intern is working in the preparation room at a funeral service establishment, the funeral director/embalmer preceptor shall remain on-site in the preparation room at all times.

PART II ***Licensing Procedures for Funeral Establishments***

Section 7.0 ***Licensure Requirements***

7.1 No person, association, co-partnership, corporation, limited liability company or otherwise, shall conduct, maintain, manage or operate a funeral establishment or branch office unless a license for each such funeral establishment and branch office has been issued by the Department and is conspicuously displayed.

7.2 In the case of funeral services conducted under the license of a funeral establishment held in any private residence, public building, or church, no separate establishment license shall be required.

7.3 A licensed funeral establishment must be distinct and separate from other non-funeral service related activities for which it is licensed.

7.4 No license to operate a funeral establishment shall be issued by the Department unless the applicant for the funeral establishment license has registered with the Department a licensed funeral director/embalmer who shall be in charge therein as the funeral director-of-record.

Section 8.0 ***Branch Office Licenses***

8.1 The branch office of a funeral establishment must have a separate branch office establishment license, but not a separate funeral director-of-record.

8.1.1 One (1) branch office shall be allowed to operate under the funeral establishment license, and this one (1) branch office may be permitted to operate without a preparation room.

Section 9.0 ***License Application and Fees***

9.1 Applications for the funeral establishment license and branch office shall be made on forms furnished by the Division.

9.1.1 Said applications shall be accompanied by the application fee ~~of seventy dollars ($70.00)~~ for the funeral establishment and ~~seventy dollars ($70.00)~~ for a branch office as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

Section 10.0 ***License Renewals***

10.1 All licenses issued under the provisions of these regulations must be renewed annually by the holders thereof.

10.2 All funeral establishment and branch office licenses shall expire on 31 December of each year, unless sooner suspended or revoked.

10.3 The license holder shall pay to the Division a yearly renewal fee ~~of ninety dollars ($90.00)~~ for the funeral establishment license and ~~ninety dollars ($90.00)~~ for each funeral establishment branch office license as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

10.4 Applications, accompanied by the renewal fee, shall be filed with the Division on or before the 31st day of December in each year.

10.4.1 Applications filed after the thirty-first day of December, and on or before the fifteenth day of January, must be accompanied by a fee ~~of seventy dollars ($70.00)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* in addition to the renewal fee cited above.

10.5 Any funeral establishment or funeral establishment branch office that acts or holds itself out as such after its license has lapsed shall be punished as provided herein.

Section 11.0 ***Display of Licenses***

11.1 Every license issued as a funeral establishment or branch office shall specify the name of the establishment as listed on the application. Licenses issued under the provisions of these regulations shall not be assignable.

11.2 Every funeral service establishment shall display the name of the establishment and of the funeral director of record on a sign readily visible to the public and located prominently on the premises.

Section 12.0 ***Change of Ownership, Operation or Location***

12.1 A license shall be issued to a specific licensee for a specific location and shall not be transferable.

12.2 The funeral establishment licensee shall notify the Division in writing, delivered in person or by certified mail, within ten (10) days from the date of termination of employment, for any cause, of the funeral director/embalmer of record for the funeral establishment.

12.2.1 The license of the funeral establishment shall expire forty-five (45) days from the date the Division was notified by the licensee, if no new funeral director/embalmer is registered with the Division.

12.2.2 No funeral services shall be conducted at the funeral establishment without a funeral director/embalmer being registered with the Division as the funeral director of record for that funeral establishment.

12.3 Two (2) licensed funeral directors may operate jointly at one (1) location if one of their existing funeral establishments closes its place of business and joins an existing licensed funeral establishment. Each firm will hold its own separate establishment license. The funeral service establishment that closes its place of business and joins an existing licensed funeral service establishment cannot open a branch office by invoking this section.

12.4 Any person who inherits any ownership interest to a funeral establishment may continue to conduct the business of that establishment as their ownership interest would allow contingent upon the following:

12.4.1 Filing with the Division a statement of change-of-fact concerning that inheritance; and

12.4.2 Conducting the business of the establishment in compliance with all the requirements of Chapter 5-33.2 of the General Laws of Rhode Island, as amended.

Section 13.0 ***General Operational Requirements***

13.1 The practice of conducting funeral services shall be conducted in the presence of a licensed funeral director/embalmer.

13.2 Human dead remains shall not be held more than forty-eight (48) hours without embalming or without refrigeration for the purpose of maintaining public health.

13.3 A funeral establishment must, at a minimum, contain a preparation room equipped with tile, cement, or composition floor, necessary drainage and ventilation, and containing necessary instruments and supplies for the preparation and embalming of dead human remains for burial, transportation, or other disposition.

Medical Waste

13.4 Funeral establishments and branch offices shall be in compliance with applicable sections of Chapter 23-19.12 of the Rhode Island General Laws, as amended, and the rules and regulations of reference 3.

Casket Rentals

13.5 When caskets are made available for rental on a temporary basis, the casket may later be re-used as long as the following provisions are met:

13.5.1 Said caskets shall be manufactured specifically for multi-use purposes and shall be equipped with a removable liner or insert. No casket manufactured for a single use shall be used more than once.

13.5.2 The removable liner or insert shall be completely removed and replaced with a new liner or insert after each use;

13.5.3 No such casket shall be used or re-used after any non-removable portion of that casket has been soiled, stained, or otherwise contaminated by or from any human remains placed therein, or has been placed within a rental casket insert;

13.5.4 The customer who rents or re-uses that casket shall be informed in writing, that the casket may have been used previously and that it will be reclaimed by the funeral establishment from which he or she has rented or obtained it immediately prior to the final disposition of the deceased, and

13.5.5 Funeral directors/embalmers shall obtain written authorization from the next-of-kin, or other responsible party, attesting to the fact that the funeral merchandise provided has been previously used in whole or in part. The customer who rents or re-uses that casket

shall also sign a written disclosure that he or she has received all of the above information in writing and that he or she authorizes the funeral establishment to use the removable liner or insert selected by him or her for the disposition of the deceased.

Infection Control

13.6 Funeral directors/embalmers shall comply with the Occupational Safety and Health Administration's (OSHA) Blood borne Pathogen Standards of reference 4 in order to protect themselves and their employees against occupational exposure to bloodborne pathogens.

13.6.1 Compliance shall include, but not be limited to:

i) a written exposure control plan;
ii) staff training;
iii) engineering and work practice controls;
iv) adoption of universal precautions;
v) personal protective equipment;
vi) hepatitis B vaccinations; and
vii) a protocol for evaluation in the event that an exposure occurs.

13.7 Funeral directors/embalmers shall comply with the most recent version of the World Health Organization's *Infection Control Guidelines for Transmissible Spongiform Encephalopathies* of reference 5 herein in order to protect themselves and their employees from occupational exposure to blood borne pathogens.

Permits

13.8 The funeral director, his/her duly authorized agent, or other person acting as such, who first assumes custody of a dead body or fetus shall prepare a burial-transit permit prior to final disposition or removal from the state of the body or fetus within seven (7) calendar days after death.

13.9 The burial-transit permit shall be signed by the funeral director and by the certifying physician as designated in Chapter 23-3-16(c) of the Rhode Island General Laws, as amended.

13.10 A burial-transit permit issued under the law of another state which accompanies a dead body or fetus brought into this state shall be authority for final disposition of the body or fetus in this state.

13.11 A permit for disinterment and reinterment shall be required prior to disinterment of a dead body or fetus except as authorized by regulation or otherwise provided by law. The permit shall be issued by the local registrar of vital records at the place of disinterment to a licensed funeral director, embalmer, his/her duly authorized agent, or other person acting as such, upon proper application.

Transport of Human Remains

13.12 Human remains to be transported by common carrier shall be embalmed. If embalming is not possible, or if the body is in a state of decomposition, it shall be transported only after enclosure in a strong, sealed outer case, to prevent seepage of body fluids to the outside.

Proper Authority for Funeral Arrangements and Disposition of Human Remains

13.13 Pursuant to section 5-33.2-24 of the Rhode Island General Laws, as amended, every licensed funeral director/embalmer, licensed funeral establishment, licensed crematory, and cemetery shall comply with the following rules with respect to proper authority for funeral arrangements and disposition of human remains:

(1) If a licensed funeral establishment is a party to a funeral services contract, as defined in § 5-33.1-2, for the benefit of a deceased person, only when executed by the principal, him or herself and the contract is still in effect at the time of that person's death, the terms of that contract shall control the nature of the funeral goods and services to be provided, the manner in which funeral services are to be conducted for the deceased, and the final disposition of the deceased person's remains to the full extent provided in that contract. When the contract is executed by the principal, him or herself, and specifies cremation as the chosen disposition, the contract is considered sufficient legal authorization for cremation. No licensed funeral establishment, licensed crematory, or cemetery nor any of its agents or employees, may cancel or materially alter any of the arrangements specified in that contract, even if requested to do so by a member of the deceased person's family or a funeral planning agent designated pursuant to Chapter 33.3 of Title 5 unless compliance with the terms of the original contract would result in a violation of any applicable federal, state or local law or regulation, notwithstanding the provisions of Chapter5-33.2 of the Rhode Island General Laws, as amended.

(2) To the extent that there is no funeral services contract in effect at the time of death for the benefit of the deceased person, indicating the wishes of the deceased person with respect to the nature of the funeral goods and services to be provided, the manner in which funeral services are to be conducted, or the final disposition of the deceased person's remains, then the funeral establishment and its agents or employees shall follow the directions of the deceased person's survivors, in the following order of priority:

(i) A funeral planning agent designated pursuant to Chapter 33.3 of Title 5, if any;

(ii) The surviving spouse of the deceased;

(iii) The surviving adult children of the deceased;

(iv) The surviving parent(s) of the deceased;

(v) The surviving brother(s) or sister(s) of the deceased;

(vi) The surviving adult grandchildren of the deceased;

(vii) The surviving adult niece(s) or nephew(s) of the deceased;

(viii) The guardian of the person of the deceased at the time of his or her death.

(3) All licensed funeral directors/embalmers, licensed funeral establishments, licensed crematories, cemeteries, and all their agents and employees shall be held harmless, and shall not be subject to civil suit, either as individual(s), partnership(s), or corporation(s) for complying with the provisions of Chapter 5-33.2 of the Rhode Island General Laws, as amended.

Latex

13.14 Any licensed funeral directors/embalmers, funeral establishments, or cemeteries that utilize latex gloves shall do so in accordance with the provisions of the ***Rules and Regulations Pertaining to the Use of Latex Gloves by Health Care Workers, in Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department*** promulgated by the Department of Health.

Section 14.0 ***Inspections***

14.1 Any licensed funeral director/embalmer employed by the Division duly authorized and empowered may enter any funeral establishment, funeral establishment or branch office licensed under the provisions of these regulations, during the hours the funeral establishment or funeral establishment branch office shall be open for business, for the purpose of inspecting the sanitary conditions, complaint investigations, and ascertaining if the provisions of these rules and regulations are being observed in the operation of the funeral establishment or funeral establishment branch office.

14.2 Funeral establishments and branch offices licensed under the provisions of these regulations shall be inspected at least twice each year. Pre-need contracts shall be audited at least once per year.

14.3 Inspections shall include all areas of sanitation and public health, complaint investigations, as well as conformity with applicable sections of Chapter 5-33.2 of the General Laws, as amended, and the rules and regulations herein.

Denial, Suspension or Revocation of Licensure

14.4 The inspector may request permission from the Department to be accompanied by another employee of the Department prior to an inspection. Failure or refusal of the person in charge of that funeral establishment or funeral establishment branch office to permit such inspection at all reasonable times shall be deemed sufficient cause for the revocation of any license issued to the funeral establishment or funeral establishment branch office and any certificate of approval issued by the Division.

14.5 Every funeral establishment, funeral director/embalmer, or the agent or representatives thereof, who pays, or causes to be paid, directly or indirectly, any sum of money or other valuable consideration for the securing of business, and every person who accepts any sum of money or other valuable consideration, directly or indirectly, from a funeral director/embalmer or an agent or owner of a funeral establishment in order that the latter may obtain business, shall be guilty of a misdemeanor and upon conviction shall be punished as hereinafter provided, and the certificate of any funeral director/embalmer or the license of any funeral establishment violating the provisions of this section or whose agents or servants violate the provisions thereof, shall be revoked by the Division. This section shall not prohibit the funeral establishment or funeral director/embalmer from advertising.

PART III ***Licensing for Crematories***

Section 15.0 ***Licensure Application and Fees***

15.1 No person or business shall erect, maintain, or operate a crematory in this state without first providing the necessary appliances and facilities for the cremation of human remains and without obtaining all the necessary licenses as required by these rules and regulations.

15.2 A crematory authority shall be subject to all local, state and federal health and environmental protection requirements and shall obtain all necessary licenses and permits from the Department, the federal department of health and human services, and the state and federal environmental protection agencies, or such other appropriate local, state and federal agencies.

15.3 A crematory may be constructed on or adjacent to any cemetery, in, or adjacent to any funeral home or at any other location consistent with local zoning regulations and state laws.

15.4 Applications for the crematory license shall be made on forms furnished by the Division accompanied by a non-refundable application fee ~~of ninety dollars ($90.00)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* and copies of all necessary local, state and federal permits and licenses.

15.5 A license shall be issued to a specific licensee for a specific location and shall not be transferable.

15.6 The facility and licensee shall meet all requirements as set forth by these rules and regulations, consistent with Chapter 5-33.2 of the Rhode Island General Laws, as amended.

Section 16.0 ***Renewal of Licenses***

16.1 All licenses issued under the provisions of these regulations must be renewed annually by the holders thereof who shall pay to the Division a yearly renewal fee ~~of ninety dollars ($90.00)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* for the crematory license.

16.2 Applications, accompanied by the renewal fee, shall be filed with the Division on or before the 31st day of December in each year.

16.2.1 Applications filed after the 31st day of December, and on or before the 15th day of January, must be accompanied by a fee ~~of seventy dollars ($70.00)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* in addition to the renewal fee cited above.

16.3 Any crematory that acts or holds itself out as such after its license has lapsed shall be punished as provided herein.

Section 17.0 ***Inspections***

17.1 Any licensed funeral director/embalmer employed by the Division of Professional Regulation duly authorized and empowered may enter any crematory licensed under the provisions of these regulations, during the hours the crematory shall be open for business, for the purpose of inspecting the sanitary conditions, complaint investigations, and ascertaining if the provisions of these rules and regulations are being observed in the operation of the crematory.

17.2 The inspector may request permission from the Department to be accompanied by another Departmental employee prior to an inspection. Failure or refusal of the person in charge of that crematory to permit such inspection at all reasonable times shall be deemed sufficient cause for the revocation of any license issued to the crematory.

17.3 Crematories licensed under the provisions of these regulations shall be inspected at least twice (2) each year.

17.4 Inspections shall include all areas of sanitation and public health, complaint investigations, as well as conformity with applicable sections of these rules and regulations.

Section 18.0 ***General Operational Requirements***

Practice of Cremation

The practice of cremation shall include no less than the following provisions:

18.1 The body of a deceased person shall not be cremated within twenty-four (24) hours after his/her death unless he/she dies of a contagious or infectious disease.

18.2 The body shall not be received or cremated by any corporation authorized to cremate the bodies of the dead until its officers have received:

18.2.1 a cremation authorization form signed by the authorizing agent, whose right to authorize the cremation was established in accordance with Chapter 5-33.2 of the Rhode Island General Laws, as amended. The cremation authorization form shall contain, at a minimum, the following information:

a) the identity of the human remains to be cremated and the time and date of death;

b) the name of the funeral establishment that obtained the cremation authorization;

c) notification as to whether the death occurred from a disease declared by the Department to be infectious, contagious, communicable or dangerous to the public health;

d) the name and address of the authorizing agent and the relationship between the authorizing agent and the decedent;

e) a representation that the authorizing agent does in fact have the right to authorize the cremation, and that the authorizing agent in not aware of any living person

who has a superior priority right to that of the authorizing agent. In the event that there is another living person who has an equal priority right to the authorizing agent the form shall contain a representation that the authorizing agent has made reasonable efforts to contact that person, has been unable to do so and has no reason to believe that the person would object to the cremation of the decedent.

f) authorization for the crematory to cremate the human remains;

g) a representation that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation;

h) the name of the person, or the name of the funeral establishment, authorized to receive the cremated remains from the crematory;

i) the manner in which final disposition of the cremated remains is to take place, if known;

j) the signature of the authorizing agent attesting to the accuracy of all representations contained on the cremation authorization form;

k) If authorization was given as part of a previously executed pre-need funeral contract, then the crematory must receive a copy of that form in accordance with Chapter 5-33.2 of the Rhode Island General Laws, as amended.

18.2.2 a completed and executed burial transit permit required by law before disposition is made indicating that the human remains named on the permit are to be cremated, and

18.2.3 a cremation certificate issued by the Rhode Island Office of the State Medical Examiner. A cremation certificate shall be issued only if the Office of the State Medical Examiner determines that the cause and manner of death is such that no further examination or judicial inquiry concerning the same is necessary.

18.2.4 The cremation certificate issued to the funeral director by the Medical Examiner, in duplicate, shall accompany the body to the crematory. The crematory shall retain the duplicate copy and mail the original copy to the state Division of Vital Records.

18.3 A crematory shall not take custody of unidentified human remains. The identity of the decedent contained within each cremation container or casket must clearly be indicated on, or labeled attached to, the outside of the container or casket.

18.4 Every crematory shall establish an internal system of identification of human remains received for cremation. This system shall be designed to track the identity of the remains from the time of receipt until completion of the cremation and delivery of the cremated remains to the authorized person(s) or until otherwise disposed of in accordance with the instructions from the authorized agent(s) or in accordance with these rules and regulations once the cremated remains have been abandoned.

18.5 Human remains designated for cremation shall be cremated without unreasonable delay.

18.6 When the crematory is unable to cremate the human remains immediately upon taking custody, the crematory shall provide a secured holding facility that shall comply with any applicable public health laws that shall preserve the dignity of the human remains.

18.7 Holding facilities shall be secure from access by all unauthorized persons.

18.8 A metal, indestructible identifying disk shall be placed in, or near the control panel of, the cremation chamber with the human remains for the purpose of identifying said remains. The name of the crematory or its license number shall be imprinted on said disk.

18.9 The crematory shall not simultaneously cremate more than one (1) human remains within the same cremation chamber.

(i) Upon completion of each cremation, the human remains shall be removed and the retort shall be cleaned and all recoverable residue of the cremation process shall be removed from the retort before each successive set of human remains are inserted.

18.10 In cases where the human remains are to be cremated, the funeral director/embalmer shall remove a pacemaker or other medical device(s) from the remains and transmit said device(s) to the next-of-kin or other responsible party.

18.11 In all cases where the human remains are to be cremated, the next-of-kin or other responsible party shall sign a written consent personally identifying the body prior to cremation. If this is not possible, the funeral director/embalmer shall obtain a written consent (see Appendix "B") from the next-of-kin, or other responsible party, assuming all responsibility for the identification of the human remains.

18.12 A crematory authority shall not accept a casket or alternative container from which there is any evidence of the leakage of body fluids.

18.13 Except as provided for in subsection 18.14 of these rules and regulations, no crematory shall make or enforce any rules requiring that human remains be placed in a casket before cremation or that human remains be cremated in a casket, nor shall the crematory refuse to accept human remains for cremation for the reason that they are not in a casket.

18.14 Human remains shall be transferred to a crematory in a casket or cremation container. Human remains shall not be removed from the casket or cremation container and the casket or cremation container shall be cremated with the human remains, unless the crematory authority has been provided with written instructions to the contrary by the authorizing agent or unless the crematory does not accept metal caskets for cremation.

18.15 Upon completion of the cremation, and in so far as possible, all of the recoverable residue of the cremation process shall be removed form the cremation chamber. In so far as possible, all residue from the cremation process shall then be separate from anything other than bone fragments. The bone fragments shall be processed so as to reduce them to unidentifiable particles. Anything other than the particles shall be removed from the cremated residuals as far as possible and shall be disposed of by the crematory.

18.16 Cremated remains, including the proper identification tag, shall be placed within a temporary container or urn as instructed by the authorizing agent(s). When a temporary container is used the outside of the container shall be clearly identified with the name of the deceased person whose cremated remains are contained therein, the name of the crematory and the crematory's identification number for those cremated remains. When an urn is used, the urn shall be placed in a suitable box, or cloth bag, and the outside of the box or bag shall be clearly identified with the name of the deceased person whose cremated remains are contained therein, the name of the crematory and the crematory's identification number for those cremated remains.

18.17 If the cremated remains are to be shipped, or mailed, the designated receptacle ordered by the authorizing agent shall be packed securely in a suitable, sturdy and pressure resistant container which is not fragile and is sealed properly. Cremated remains shall be shipped, or mailed, only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

18.18 Each crematory shall maintain on its premises, or other business location within the state, an accurate record of all cremation performed. This record, or log, shall include all of the following information: the name of the deceased, the date the body was received by the crematory, the crematory's identification number assigned to the cremation, the name of the referring funeral home, the time, date and temperature at which the body was inserted into the cremation chamber, the time, date and temperature the body was removed from the cremation chamber and the name of the individual who supervised the cremation.

18.19 When the crematory releases the cremated remains, a receipt shall be signed by the individual who is receiving the cremated remains from the crematory.

18.20 Crematory authorities shall abide by all applicable state and federal laws and regulations.

Disposition of Human Remains

18.21 A crematory or funeral home shall be authorized to arrange for disposition of cremated remains, in a dignified manner, that have been abandoned at the crematory or funeral home for more than six (6) months.

(i) All reasonable attempts must be made and due diligence exercised to contact the person in charge who authorized the cremation. Written notice shall be sent by certified mail, return receipt requested, to the last known address of the person who authorized the cremation at least sixty (60) days prior to disposition.

(ii) Records shall be maintained to indicate the disposition of the human remains after cremation.

18.22 This section shall not apply to the cremation of various body parts from different human bodies.

Proper Authority for Funeral Arrangements and Disposition of Human Remains

18.23 Pursuant to section 5-33.2-24 of the Rhode Island General Laws, as amended, every licensed crematory and cemetery shall comply with the rules of section 13.13 herein with respect to proper authority for funeral arrangements and disposition of human remains.

Medical Waste

18.24 The facility shall be in compliance with applicable sections of Chapter 23-19.12 of the Rhode Island General Laws, as amended, and the *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste in Rhode Island* (see reference 3).

Latex

18.25 Any crematory that utilizes latex gloves shall do so in accordance with the provisions of the ***Rules and Regulations Pertaining to the Use of Latex Gloves by Health Care Workers, in Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department*** promulgated by the Department of Health.

PART IV *Denial, Suspension, Revocation and Severability*

Section 19.0 *Revocations or Suspensions*

The Division shall have the power to refuse to issue or may revoke or suspend any license issued by it under these regulations, after written notification and hearing before the Board for gross incompetency or for unprofessional conduct.

19.1 Unprofessional conduct is hereby defined to include:

19.1.1 Conviction of a felony;

19.1.2 Misrepresentations made of services, goods, or of funeral prices or fraud committed as a holder of a license for the practice of embalming, funeral directing or the holder of a license as a funeral establishment, funeral establishment branch or crematory;

19.1.3 False or misleading advertising as the holder of a license for the practice of embalming, funeral directing or the holder of a license as a funeral establishment, funeral establishment branch or crematory; violating any regulations relating to "truth in advertising"; or failure to do the following:

(i) List only full-time employees or those having any ownership interest in the advertisements including his/her title which clearly identifies one's duties;

(ii) List the name of the funeral director of record for the establishment in all advertising;

(iii) A deceased founder may be listed in advertisements with the notation "founder" following the name;

19.1.4 Solicitation of dead human bodies by any licensed embalmer, funeral director, funeral attendant or the holder of a license as a funeral establishment, funeral establishment branch or crematory, its agents, assistants or employees, whether such solicitation occurs after death or while death is impending; provided that this shall not be deemed to prohibit general advertising;

19.1.5 Employment directly or indirectly of any intern, agent, assistant, employee, or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;

19.1.6 The direct or indirect payment or offer of payment of a commission by any funeral establishment, funeral establishment branch or crematory, its agents, assistants, or employees for the purpose of securing business;

19.1.7 Solicitation or acceptance by a licensed funeral director/embalmer, or the holder of a license as a funeral establishment, funeral establishment branch or crematory, of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;

19.1.8 Using any funeral merchandise previously used in whole or in part without prior written permission of the person selecting and/or paying for the use of the merchandise;

19.1.9 Violation of any of the provisions of these regulations;

19.1.10 Violation of any state law or rule or regulation affecting the handling, custody, care, transportation or final disposition of dead human bodies;

19.1.11 Fraud or misrepresentation in obtaining or renewing a license;

19.1.12 Refusing to properly release a dead human body to the custody of the person or entity who has the legal right to affect such release and authorized cost has been paid;

19.1.13 Aiding or abetting an unlicensed person to practice funeral directing and embalming or holding oneself out as a licensed funeral director/embalmer;

19.1.14 Failure to secure any required permit for removal or burial of dead human remains prior to interment or final disposition;

19.1.15 Knowingly making any false statement on a certificate of death;

19.1.16 Violation of Chapter 5-33.1 of the Rhode Island General Laws, as amended, entitled "Funeral Service Contracts";

19.1.17 Discriminating in services because of race, creed, color, or national origin;

19.1.18 Permitting non-funeral service licensees to make arrangements for a funeral prior to, or at, need unless exempted under Chapter 5-33.1 of the General Laws or a registered intern under the supervision of a licensee;

19.1.19 Substantial or repeated violations of the rules and regulations of the Federal Trade Commission (of reference 1); and/or the Occupational Safety and Health Administration; and/or the Department of Environmental Management (of reference 3);

19.1.20 Other violations deemed sufficient.

19.2 Each funeral director/embalmer of record shall, on or before the tenth (10th) day of the following month, file a report with the state registrar of vital records listing funerals and/or decedents serviced following deaths or fetal deaths within the month. (This report is to be filed even if there is no activity within the month to report). Failure to file these reports or any of the certificates required under Chapter 23-3-16 of the Rhode Island General Laws, as amended, within the prescribed time limits shall be grounds for disciplinary action, including revocation of license by the Board.

19.3 Before any license shall be so revoked or suspended, the holder thereof shall have notice in writing of the charge or charges against him/her and shall have reasonable opportunity to be heard in his/her defense.

19.4 Any person whose license has been so revoked or suspended may apply to have the certificate reissued, and the certificate shall be reissued to him/her upon a satisfactory showing that disqualification has ceased.

Appeals

19.5 All hearings and reviews required under the provisions of Chapter 5-33.2 of the Rhode Island General Laws, as amended, shall be held in accordance with the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)* of reference 2.

Violations and Penalties

19.6 Any person, partnership, corporation, association or its agents or representatives violating any of the provisions of Chapter 5-33.2 of the General Laws, as amended, or of any rules or regulations of the Division, shall be guilty of a misdemeanor.

19.7 Upon conviction, the person(s) shall be punished by imprisonment for a term not exceeding six (6) months or by a fine not exceeding five hundred dollars ($500), or by both the fine and imprisonment, within the discretion of the Court.

Violations and Complaints

19.8 All complaints filed with the Division charging a person or establishment with having been guilty of any actions specified in these rules and regulations must be sworn and notarized.

Section 20.0 ***Board of Examiners***

20.1 The Director, with the approval of the Governor, shall appoint to the Division, a Board of Examiners, consisting of three (3) embalmers/funeral directors and two (2) consumers.

Qualification of the Board

20.2 The members of the Board of Examiners in embalming shall be:

(i) residents of this state for at least five (5) years;
(ii) three (3) members shall have had at least five (5) years practical experience in embalming dead human bodies and in funeral directing, and shall have been actually engaged therein in this state; and
(iii) two (2) members shall be private citizens who represent the consumer and who are not involved or affiliated with, financially or otherwise, any funeral establishment and/or funeral director/embalmer;
(iv) Current members shall serve their present terms as they fulfill the requirements of this section.
(v) No member shall serve more than two (2) consecutive terms.

Removal of Board Members

20.3 The Director may remove any member of the Board for cause.

Vacancies

20.4 On the expiration of the term of any member, the Director, by and with the consent and advice of the Governor, shall fill the vacancy by appointment for a term of three (3) years.

20.5 Upon the death, resignation or removal for cause of any member, the Director, by and with the consent and advice of the Governor, shall fill the vacancy by appointment for the unexpired portion of the term.

20.6 Every member shall serve until his/her successor has been appointed and qualified.

Section 21.0 ***Variance Procedure***

21.1 The Department may grant a variance upon request of the licensee from the provisions of any rules and regulations herein, if it finds in specific cases, that a literal enforcement of such provision will result in unnecessary hardship to the licensee and that such a variance will not be contrary to the public interest.

21.2 A request for a variance shall be filed by a licensee in writing, setting forth in detail the basis upon which the request is made.

21.2.1 Upon filing of each request for variance with the Department and within a reasonable time thereafter, the Department shall notify the licensee by certified mail of its approval or in the case of a denial, a hearing date, time and place may be scheduled if the licensee appeals the denial. Such hearing must be held in accordance with the provisions of section 19.5 herein.

Section 22.0 ***Severability***

22.1 If any provision of any rule or regulation made or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the remainder of the rule or regulation, and the application of the provision to other persons or circumstances, shall not be affected thereby.

PART V ***References***

1. Federal Trade Commission, "Funeral Industry Practices," 16 *Code of Federal Regulations*, Chapter 1, Part 453.1, pp.323--330, January 1, 1996.

2. *Rules and Regulations of the Rhode Island Department of Health Regarding the Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*, Rhode Island Department of Health, April 2004 and subsequent amendments thereto. Available online: http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH_2945.pdf

3. *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste in Rhode Island (R01-92-MW*), Rhode Island Department of Environmental Management, April 1994. Available online: http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DEM/DEM_1011_.pdf

4. *Blood borne Pathogens*, Occupational Safety and Health Administration (OSHA), 29 CFR Part 1910--1000 to end, section 1910.1030, pp. 316--326, July 1, 1994.

5. World Health Organization: Communicable Disease Surveillance and Control, *WHO Infection Control Guidelines for Transmissible Spongiform Encephalopathies*: Report of a WHO Consultation, Geneva, Switzerland, 23-26 March 1999. available online at: **http://www.who.int/emc-documents/tse/whocdscsraph2003c.html**

6. *Rules and Regulations Pertaining to the Use of Latex Gloves by Health Care Workers, in Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department (R23-73-LAT)*, Rhode Island Department of Health, May 2002 and subsequent amendments thereto. Available online: http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH_2008_.pdf

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APPENDIX "A"

RENTAL CASKET DISCLOSURE

Name of Decedent: _____

Date of Death: _____

Name of Representative: _____

1. **RELATIONSHIP OF REPRESENTATIVE:** The REPRESENTATIVE warrants and represents to FUNERAL HOME that the relationship between the REPRESENTATIVE and the DECEDENT is as follows:

☐ Spouse ☐ Next-of-Kin (Closest Living Relative): _____

☐ Personal Representative of the Next-of-Kin with written authorization to act on his/her behalf

☐ Other: _____

2. **AUTHORITY OF REPRESENTATIVE:** The REPRESENTATIVE warrants and represents to FUNERAL HOME that the REPRESENTATIVE is the person or the appointed agent of the person who by law has the paramount right to arrange and direct the disposition of the remains of the DECEDENT and that no other person(s) has a superior right over the right of the REPRESENTATIVE.

3. **ACKNOWLEDGMENTS REGARDING RENTAL CASKET:**

The REPRESENTATIVE understands and acknowledges that the rental casket to be used in the funeral services of the DECEDENT may have been used previously by the FUNERAL HOME. The REPRESENTATIVE further understands and acknowledges that immediately prior to the final disposition of the remains of the DECEDENT, the FUNERAL HOME will reclaim the rental casket and will place the remains of the DECEDENT in a different container for such disposition.

_____
DATE

_____
SIGNATURE OF REPRESENTATIVE

APPENDIX "B"

AUTHORIZATION FOR TRANSFER, EMBALMING, OTHER PREPARATION, REMOVAL OF MEDICAL DEVICES AND IDENTIFICATION OF THE DECEDENT

I (We) hereby designate FUNERAL HOME as the funeral directors in charge of the funeral arrangements for: NAME OF DECEDENT _____

and herein authorize them to transfer the decedent to their funeral home for the purpose of:

( ) embalming and other preparation ( ) other preparation necessary for funeralization.

The undersigned hereby authorizes and directs said funeral home and/or its agents to remove a _____ from the above named decedent and transmit such device to: _____.

The undersigned further states that they (**HAVE) (HAVE NOT**) identified the body of the above named decedent and assume all responsibility and/or liability of anyone whomsoever for mistaken identity. The undersigned do hereby agree to indemnify and hold harmless the above-named funeral home, its officers, agents and employees from any claims or causes of action, including a reasonable attorney's fee for the defense thereof arising out of their act of identification or failure to identify, or arising out of their decision not to embalm, or arising out of any other decision indicated by this agreement which may result in mental or physical distress or anguish or harm of financial loss to themselves or to others.

I (We) herein represent that I am (we are) the next of kin, or I am (we are) duly authorized to act as an agent for the next of kin.

Signature _____ Relationship _____ Date _____

Signature _____ Relationship _____ Date _____

Signature _____ Relationship _____ Date _____

VERBAL AUTHORIZATION FOR EMBALMING AND OTHER PREPARATION

Person's Name _____ Relationship _____ Date _____

Received By _____