

NOTICE OF INTENT

Department of Health

Board of Embalmers and Funeral Directors

Department of Health and Hospitals
Board of Embalmers and Funeral Directors

Notice is hereby given in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:840 (A) (1), that the Board of Embalmers and Funeral Directors proposes to amend LAC 46:XXXVII. Chapter 7 to facilitate the renewal process in accordance with LA R.S. 37:844, Chapter 9 to add language regarding the internship fee, Chapter 17 to correct an error of reference, Chapter 19 to restructure language with regard to Heirship, and Chapter 20 to remove fees that are not statutorily allowed.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 7. License

§701. Renewal and Reinstatement

A. Application for renewal of a funeral director or an embalmer and funeral director license and an establishment license that must also include the annual report of prepaid funeral services or merchandise may be submitted to the board beginning October 1 and ending on December 31 of each year.

B. A license shall be considered lapsed upon the fifth day following the delivery date of a delinquency notice as verified by the tracking receipt. Should the delinquency notice be determined, for any reason, as undelivered and/or undeliverable by review of the tracking receipt, then January 31 shall be the final deadline for a delinquent license to be renewed to avoid a lapse of the license. When an establishment license payment has lapsed, no license will be reinstated by the board without the submission of a new establishment application, application fee, and the completion of the required inspections. When a funeral director or an embalmer and funeral director or an establishment license payment has lapsed, no license will be reinstated by the board, without the submission of a completed funeral director or an embalmer and funeral director license application, application fee and the current year renewal fee; Additionally, should a funeral director or an embalmer and funeral director license lapse for more than one year, proof of having successfully passed the Louisiana Laws and Regulations examination shall be required.

C. Application for renewal of a crematory retort operator or crematory license may be submitted to the board beginning February 15 and ending on May 15 of each year.

D. A license shall be considered lapsed upon the fifth day following the delivery date of a delinquency notice as verified by the tracking receipt. Should the delinquency notice be determined, for any reason, as undelivered and/or undeliverable by review of the tracking receipt, then June 15 shall be the final deadline for a delinquent license to be renewed to avoid a lapse of the license. When a crematory retort operator license payment has lapsed, no license will be reinstated by the board, without the submission of a completed retort operator license application, application fee, and the current year renewal fee.

E. - J. Repealed.

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

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, LR 4:227 (June 1978), LR 5:279 (September 1979), LR 11:687 (July 1985), LR 13:436 (August 1987), amended by the Department of

Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:2820 (December 2004), LR 34:2399 (November 2008), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 43:1536 (August 2017), LR 46:

Chapter 9. Internship

§905. Application; Fee

A. Each intern shall make application to the board on prescribed forms, accompanied by a fee as established by the board which is non-refundable and if found acceptable shall be registered as such and issued an identification number.

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

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2824 (December 2004), LR 42:405 (March 2016), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 46:

Chapter 17. Prepaid Funeral Services or Merchandise

§1701. Reports on Prepaid Funeral Services or Merchandise

A. The report required by R.S. 37:865(D) from licensed funeral establishments engaged in the selling of prepaid funeral services or merchandise is necessary only in those instances where funds have actually been paid to or received by a licensed funeral establishment for such services or merchandise. The purpose of requiring such report is to protect purchasers of prepaid funeral services or merchandise by insuring that funds, paid by a purchaser to a licensed funeral establishment, are utilized solely for his exclusive use and benefit. Prearrangements of funerals by licensed funeral establishments, which are unfunded, are not within the scope of R.S. 37:865(D), and, accordingly, no report is required in these instances.

B. The report shall be in such form and contain such information as is prescribed by R.S. 37:865(D) and shall be filed by each licensed funeral establishment engaged in the selling of prepaid funeral services or merchandise no later than December 31 of each year, and shall cover the period from October 1 of the previous year to and including September 30 of the year in which the report is due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:861.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 8:188 (April 1982), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2827 (December 2004), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 46:

Chapter 19. Survivor's Clause

§1901. Survivor's Clause

A. A survivor of the proprietor or the widow of the principal share holder of a funeral establishment can be issued a special work permit in a managerial position. Permit must be applied for within 60 days after death of spouse. Said permit is to be issued for a period not to exceed 12 months following approval of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2827 (December 2004), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 46:

§1902. Heirship Clause

A. An heir or heirs, upon the death of the proprietor of the principal share-holder of a funeral establishment shall apply for an interim ownership change for the establishment. An ownership change

(interim) must be applied for within 30 days after death of the principal shareholder by submitting to the secretary of the board an ownership change application and fee. Said interim ownership change may be issued for a period not to exceed twelve months following approval of the ownership change application. Should the ownership change not be finalized and completed upon the expiration of the twelve-month period, another ownership change application shall be submitted for an extension of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2827 (December 2004), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 46:

Chapter 20. Fees

§2001. Fees

- A. The board shall require payment of fees hereunder as follows:
1. a fee of \$250 from each person applying for a funeral director license;
 2. a fee of \$250 from each person applying for an embalmer and funeral director license;
 3. a fee of \$250 from each person applying for a crematory retort operator license;
 4. a fee of \$80 for the annual renewal of each of the licenses listed in Paragraphs 1, 2, and 3 of this Section;
 5. a fee of \$1,000 for each funeral establishment applying for a license to operate within this state;
 6. a fee of \$1,000 for each crematory applying for a license to operate within this state;
 7. a fee of \$700 for the annual renewal of each of the licenses listed in Paragraphs 5 and 6 of this Section;
 8. a fee of \$500 for each inspection or re-inspection of a funeral establishment applying for an initial license to operate within this state or as a result of a location, or an ownership change;
 9. a fee of \$500 for each inspection or re-inspection of a crematory applying for a license to operate within this state or as a result of a location, or an ownership change;
 10. a fee of \$100 from each person applying for an internship;
 11. a fee of \$100 from each person applying for a duplicate certificate;
 12. a fee of \$100 from each person applying for a temporary license within this state;
 13. - 14. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and 37:845.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2828 (December 2004), amended LR 42:405 (March 2016), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 43:1537 (August 2017), LR 46:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Professional and Occupations Standards for Embalmers and Funeral Directors should not have any known or foreseeable impact on any family as defined by R.S. 49:972 (D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;

5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed rule.

Poverty Impact Statement

This proposed rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973 (B). In particular, there should be no known foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rules does not impact or affect a provider. "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed Rule has no effect or impact on a provider in regard to:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the provider to provide the same level of service;
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Kim W. Michel, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, 3500 N. Causeway Blvd., Suite 1232, Metairie, LA 70002. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Kim W. Michel
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: License, Internship, Inspection, Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in a one-time expense of \$1,000 in FY 20 for the Board of Embalmers and Funeral Directors ("Board") to publish the notice of intent and final rule publication in the Louisiana Register. There are no other additional costs or savings for other state or local governmental units. The proposed rule changes make the application fee for internship applications non-refundable; provide a path for heirs of a funeral establishment owner to assume control of the firm in the event of death; repeal outdated, uncollected fees; and make technical changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS

(Summary)

The proposed rule changes are not anticipated to affect revenue collections for state or local governmental units. The fees being repealed for registration of business offices (\$400) and approval of continuing education courses (\$100) will not affect revenue collections, as the Board has not been collecting these fees because they do not have the statutory authority to do so. The heirship clause is not anticipated to affect revenue collections, as heirs of a funeral establishment seeking to assume control ownership of the firm in the event of death on an interim ownership change would have to remit the one-time \$500 inspection fee and and \$1,000 fee for a license to operate. Lastly, making the \$100 internship application fee non-refundable is not anticipated to significantly affect revenue collections for the Board, as applicants rarely seek refunds.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule changes will benefit heirs of a deceased funeral establishment owner, as they provide a pathway for them to operate a funeral establishment after the owner's passing. Such heirs would have to seek an interim ownership change and remit the one-time \$500 inspection fee and and \$1,000 fee for a license to operate, but may realize economic benefits associated with operating the funeral establishment. Lastly, making the \$100 internship application fee non-refundable is not anticipated to affect persons seeking internships, as applicants rarely seek refunds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to affect competition or employment.

Kim W. Michel
Executive Director