

Proposed Rule
LSA Document #12-198

DIGEST

Amends [832 IAC 2-1-1](#) concerning definitions, fees, and reports. Amends [832 IAC 2-1-2](#) concerning fees. Amends [832 IAC 2-1-4](#) concerning notice of changes in circumstances. Amends [832 IAC 2-1-5](#) concerning notifications. Amends [832 IAC 2-2-2](#) concerning cremation, burial permit requirements, and written authority. Adds [832 IAC 2-2-2.1](#) concerning simultaneous cremation. Amends [832 IAC 2-2-4](#) concerning professional conduct. Amends [832 IAC 3-1-1](#) concerning approved college, school, or department of mortuary science. Amends [832 IAC 3-2-1](#) concerning funeral director internships. Amends [832 IAC 3-2-2](#) concerning recognized funeral service intern examinations. Amends [832 IAC 3-2-3](#) concerning funeral director intern case reports. Amends [832 IAC 3-2-4](#) concerning requirements for third and subsequent takings of the funeral director license examination. Amends [832 IAC 3-3-2](#) concerning the funeral director license and out-of-state applicants. Amends [832 IAC 3-3-5](#) concerning effect of expired funeral director license. Amends [832 IAC 4-1-1](#) concerning continuing education requirements. Amends [832 IAC 4-1-2](#) concerning continuing education. Amends [832 IAC 4-1-3](#) concerning sponsors. Amends [832 IAC 4-2-2](#) concerning continuing education requirements for license reinstatement. Amends [832 IAC 4-2-4](#) concerning application of renewal for license. Adds [832 IAC 5-1-0.5](#) concerning licensure procedure. Amends [832 IAC 5-1-1.1](#) concerning inspections. Adds [832 IAC 5-1-1.2](#) concerning records. Amends [832 IAC 5-1-3](#) concerning plumbing requirements and back-siphonage protection systems. Amends [832 IAC 5-1-4](#) concerning embalming rooms, construction fixtures, and equipment and use requirements. Amends [832 IAC 5-2-1](#) concerning display of license. Amends [832 IAC 5-2-2](#) concerning required employment of embalmers by unqualified funeral directors. Amends [832 IAC 5-2-4](#) concerning supervised funeral service limited to licensees. Amends [832 IAC 5-2-5](#) concerning duplicate licenses at all locations where associated. Amends [832 IAC 6-1-1](#) concerning notifications affecting preneed contracts. Adds [832 IAC 6-1-3](#) concerning payment of trust and escrow funds and documentation required. Amends [832 IAC 7-1-1](#) concerning definitions. Amends [832 IAC 7-2-1](#) concerning preneed contract. Amends [832 IAC 7-2-4](#) concerning bank trust deposits. Amends [832 IAC 7-2-5](#) concerning cash advance item and sales tax collections. Amends [832 IAC 7-2-6](#) concerning duplicate contracts. Adds [832 IAC 7-2-7.1](#) concerning inability to perform contractual duties. Amends [832 IAC 7-2-8](#) concerning consumer protection charges. Amends [832 IAC 7-2-9](#) concerning consumer protection fund disclosure. Amends [832 IAC 7-2-10](#) concerning excess funds and [IC 30-2-10](#) trust. Amends [832 IAC 7-2-12](#) concerning requirements to make records available to board. Adds [832 IAC 7-2-13](#) concerning unlawful inducement. Adds [832 IAC 8-1-1](#) concerning definitions. Adds [832 IAC 8-1-2](#) concerning purpose of the preneed consumer protection fund. Adds [832 IAC 8-1-3](#) concerning requests for restitution. Adds [832 IAC 8-1-4](#) concerning board approval of disbursement. Adds [832 IAC 8-1-5](#) concerning interest. Adds [832 IAC 8-2-1](#) concerning definitions. Adds [832 IAC 8-2-2](#) concerning purpose of the consumer protection fund for cemetery maintenance. Adds [832 IAC 8-2-3](#) concerning request for maintenance assistance. Adds [832 IAC 8-2-4](#) concerning approval or disapproval; notice of termination. Repeals [832 IAC 3-3-4](#), [832 IAC 4-1-4](#), [832 IAC 4-2-1](#), [832 IAC 5-2-3](#), [832 IAC 5-2-6](#), [832 IAC 7-1-2](#), [832 IAC 7-1-3](#), [832 IAC 7-1-5](#), [832 IAC 7-1-6](#), [832 IAC 7-1-7](#), [832 IAC 7-1-8](#), [832 IAC 7-1-9](#), [832 IAC 7-2-7](#), and [832 IAC 7-2-11](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[832 IAC 2-1-1](#); [832 IAC 2-1-2](#); [832 IAC 2-1-4](#); [832 IAC 2-1-5](#); [832 IAC 2-2-2](#); [832 IAC 2-2-2.1](#); [832 IAC 2-2-4](#); [832 IAC 3-1-1](#); [832 IAC 3-2-1](#); [832 IAC 3-2-2](#); [832 IAC 3-2-3](#); [832 IAC 3-2-4](#); [832 IAC 3-3-2](#); [832 IAC 3-3-4](#); [832 IAC 3-3-5](#); [832 IAC 4-1-1](#); [832 IAC 4-1-2](#); [832 IAC 4-1-3](#); [832 IAC 4-1-4](#); [832 IAC 4-2-1](#); [832 IAC 4-2-2](#); [832 IAC 4-2-4](#); [832 IAC 5-1-0.5](#); [832 IAC 5-1-1.1](#); [832 IAC 5-1-1.2](#); [832 IAC 5-1-3](#); [832 IAC 5-1-4](#); [832 IAC 5-2-1](#); [832 IAC 5-2-2](#); [832 IAC 5-2-3](#); [832 IAC 5-2-4](#); [832 IAC 5-2-5](#); [832 IAC 5-2-6](#); [832 IAC 6-1-1](#); [832 IAC 6-1-3](#); [832 IAC 7-1-1](#); [832 IAC 7-1-2](#); [832 IAC 7-1-3](#); [832 IAC 7-1-5](#); [832 IAC 7-1-6](#); [832 IAC 7-1-7](#); [832 IAC 7-1-8](#); [832 IAC 7-1-9](#); [832 IAC 7-2-1](#); [832 IAC 7-2-4](#); [832 IAC 7-2-5](#); [832 IAC 7-2-6](#); [832 IAC 7-2-7](#); [832 IAC 7-2-7.1](#); [832 IAC 7-2-8](#); [832 IAC 7-2-9](#); [832 IAC 7-2-10](#); [832 IAC 7-2-11](#); [832 IAC 7-2-12](#); [832 IAC 7-2-13](#); [832 IAC 8](#)

SECTION 1. [832 IAC 2-1-1](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 2-1-1](#) Definitions

Authority: [IC 25-15-9-8](#)

Affected: [IC 23-14-31](#); [IC 25-15-2-6](#); [IC 25-15-2-8](#)

Sec. 1. The board does hereby adopt and make applicable to these rules and regulations (a) The definitions set forth in [IC 25-15-2](#) and this section apply throughout this title.

(b) "Authorizing agent" has the meaning set forth in [IC 23-14-31-2](#).

(c) "Board" means the state board of funeral and cemetery service.

(d) "Cremation" means the incineration of human remains, consistent with [IC 23-14-31-8](#) and [IC 25-15-2-6](#).

(e) "Cremation chamber" means the enclosed spaced where a cremation occurs, consistent with [IC 23-14-31-9](#).

(f) "Distance learning method", for the purpose of [832 IAC 4-1](#), means a formal, interactive, verifiable learning exercise where:

(1) a practitioner and instructor are separated by geography or time, or both, for the majority of the instructional period; and

(2) materials are delivered through:

- (A) print;
- (B) audio;
- (C) video;
- (D) broadcasts;
- (E) computer software;
- (F) web-based programs; or
- (G) other online technologies.

(g) "Human remains" has the meaning set forth in [IC 23-14-31-16](#) and [IC 25-15-2-8](#).

(h) "Licensee" means a person or entity licensed by or registered with the board.

(i) "Major stockholders" ~~shall mean~~ **means** those stockholders owning more than **ten percent** (10%) of the voting stock of any corporation.

(j) "Nonhuman remains" means the body of an animal other than a human.

(State Board of Funeral and Cemetery Service; [832 IAC 2-1-1](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1366; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 2. [832 IAC 2-1-2](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 2-1-2](#) Fees

Authority: [IC 25-1-8-2](#); [IC 25-15](#)

Affected: [IC 25-1-8-6](#)

Sec. 2. (a) The fee for application/issuance of a funeral home license under [IC 25-15-4-1](#)(3) is fifty dollars (\$50).

(b) The fee for application/issuance of a funeral director intern license under [IC 25-15-4-2](#)(a)(5) is twenty-five dollars (\$25).

(c) The fee for application/issuance of a funeral director license under [IC 25-15-4-3](#)(b)(7) is fifty dollars (\$50).

~~(d)~~ The fee for application/issuance of a funeral director license by reciprocity under [IC 25-15-4-5](#) is fifty dollars (\$50).

(e) The fee for application/issuance of a courtesy card under [IC 25-15-10](#) is one hundred fifty dollars (\$150).

~~(e)~~ **(f)** The fee to renew a funeral home **or funeral branch location** license under [IC 25-15-6-2](#) is fifty dollars (\$50).

~~(f)~~ **(g)** The fee to renew a funeral director license or embalmer license under [IC 25-15-6-3](#) is fifty dollars (\$50).

(h) The fee to renew a courtesy card under [IC 25-15-10](#) is one hundred fifty dollars (\$150).

~~(g)~~ **(i)** Five dollars (\$5) of every fee collected under subsections (a) through (f) shall be deposited in the funeral service education fund.

(j) The fee to renew a funeral director intern license under [IC 25-15-4-2\(a\)\(5\)](#) is twenty-five dollars (\$25).

~~(h)~~ **(k)** All applicants for any examination administered by the board shall pay a fee of fifty dollars (\$50). The same fee shall be paid for the second and all subsequent examinations. All applicants for an examination provided or administered by a professional examination service shall pay the examination or reexamination fee assessed by the professional examination service directly to the professional examination service.

~~(i)~~ **(l)** Fees for reinstatement of an expired license shall be paid in accordance with [IC 25-1-8-6](#).

~~(j)~~ **(m)** The fee for a duplicate wall certificate is ten dollars (\$10).

~~(k)~~ **(n)** The fee for verification of licensure to another state or jurisdiction is ten dollars (\$10).

(State Board of Funeral and Cemetery Service; [832 IAC 2-1-2](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1367; errata, 9 IR 1380; filed Aug 27, 1987, 2:30 p.m.: 11 IR 93; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1900; errata filed Nov 28, 1989, 3:00 p.m.: 13 IR 677; filed May 20, 1993, 5:00 p.m.: 16 IR 2422; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3100; errata filed Sep 23, 1996, 3:05 p.m.: 20 IR 333; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; filed Mar 28, 2003, 9:45 a.m.: 26 IR 2622; filed Feb 12, 2007, 3:53 p.m.: [20070314-IR-832060112FRA](#); readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 3. [832 IAC 2-1-4](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 2-1-4](#) Notice of changes in circumstances

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-8-2](#); [IC 25-15-8-6](#)

Sec. 4. All changes of address and of associations with funeral homes of embalmers and funeral directors, under [IC 25-15-8-6](#), must be reported to the board within thirty (30) days from moving date. A corporate funeral home licensee shall advise the board in writing of any changes in its officers, directors and major stockholders within thirty (30) days thereof and supply the addresses of the new officers, directors and shareholders in the said written notification.

(a) A licensee shall submit an application for a new license if there is any change in the legal entity.

(b) "Change in the legal entity" under subsection (a) includes, but is not limited to, any of the following:

(1) A corporation receiving a new charter from the secretary of state.

- (2) The creation of a new corporate entity that results in the change in federal employer identification number.
- (3) A change in control of a corporation.
- (4) A change in ownership of a sole proprietorship.
- (5) A change from a sole proprietorship to a corporation.
- (6) A change of partner in a partnership.
- (7) A partnership is ended and a new partnership is formed.
- (8) A change from corporation to sole proprietorship or partnership.
- (9) The creation, or modification from prior entity status, of a limited liability partnership or a limited liability company or corporation.

(c) An applicant for a funeral home license, either to be issued to a new funeral home or as the result of a change in funeral home location, shall be submitted to the board thirty (30) days prior to the initial date of expected operation in order to permit the board to satisfy the requirements of [832 IAC 5-1-1.1](#).

(State Board of Funeral and Cemetery Service; [832 IAC 2-1-4](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1367; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 4. [832 IAC 2-1-5](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 2-1-5](#) Notifications

Authority: [IC 25-15](#)

Affected: [IC 25-15-8](#)

Sec. 5. (a) All notifications to the board as required by law, including affidavits, which licensees are required to submit to the board by terms of [IC 25-15-8-2\(3\)](#), [IC 25-15-8-7](#) and [IC 25-15-8-11](#) must be in writing and if they are not on forms supplied prescribed by the board. they will be acknowledged by the mailing of a formal notification form which must be completed and signed by the licensee and then returned to the professional licensing agency. A notification will be invalidated and voided should the licensee fail to complete, sign and return the notification form within thirty (30) days after it is delivered to him. More than one type of notification per one licensee may be effected on one notification form. The notification will be incomplete if the duplicate license is not returned when the licensee is cancelling the registration with the board showing that he is working at or for a funeral home.

(b) Notifications include the following:

(1) A funeral director or funeral director intern must do the following:

- (A) Register with the board the name and address of the funeral home in which he or she is performing services or is an agent.
- (B) Notify the board and cancel the registration described in clause (A) within thirty (30) days of ceasing to perform services in or for the funeral home.
- (C) Notify the board of any change of name or residential address within thirty (30) days after the change.

(2) A funeral director must file an affidavit with the board as follows:

- (A) Acknowledging that the funeral director is the manager of a funeral home.
- (B) Within thirty (30) days of ceasing to act as the manager of a funeral home.

(State Board of Funeral and Cemetery Service; [832 IAC 2-1-5](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1367; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 5. [832 IAC 2-2-2](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 2-2-2](#) Cremation; burial permit required; written authority

Authority: [IC 25-15-9-8](#)

Affected: [IC 23-14-31](#); [IC 25-15-8-1](#)

Sec. 2. The disposal of ~~dead human bodies~~ **remains** by licensees shall be in strict compliance with applicable law. In the event disposition is to be cremation, ~~of any dead human body, there shall also be a burial permit~~ **shall be** obtained for and in connection with ~~said the~~ cremation. ~~and No licensee shall directly or indirectly participate in or otherwise, have any direct or indirect connection with the cremation of a dead human body remains without first having said obtained a burial permit and without, in addition, having written authority from a family member or executor of the decedent's estate~~ **the authorizing agent** to cremate ~~said the~~ decedent.

(State Board of Funeral and Cemetery Service; [832 IAC 2-2-2](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1368; errata filed Nov 28, 1989, 3:00 p.m.: 13 IR 677; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 6. [832 IAC 2-2-2.1](#) IS ADDED TO READ AS FOLLOWS:

[832 IAC 2-2-2.1](#) Simultaneous cremation; unauthorized activity

Authority: [IC 25-15-9-8](#)

Affected: [IC 23-14-31-39](#)

Sec. 2.1. (a) Except as permitted by [IC 23-14-31-39](#), human remains of more than one (1) individual shall not be simultaneously cremated within the same cremation chamber.

(b) Nonhuman remains shall not be simultaneously cremated with human remains within the same cremation chamber.

(State Board of Funeral and Cemetery Service; [832 IAC 2-2-2.1](#))

SECTION 7. [832 IAC 2-2-4](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 2-2-4](#) Professional conduct

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15](#)

Sec. 4. No licensee shall permit or engage in **the following**:

(1) The use of drugs or the consumption of alcohol or any other substance of a similar nature that would affect the ability of a licensee to perform the duties and services for which he **or she** is licensed.

(2) The practice of funeral services except as the agent of a licensed funeral home either as an owner or employee or under a bona fide contractual agreement. Nothing herein shall be construed to restrict preneed agents or cemeteries from performing duties and functions as provided by law.

~~(2) (3) Refusal to promptly surrender the custody of a dead human body remains upon the express order of the person who is in the closest degree of consanguinity as defined by the common law; authorized by Indiana law to make arrangements.~~

~~(3) (4) Failure to secure a permit for removal or burial of a dead human body remains prior to interment or other disposal.~~

~~(4) (5) Obtaining possession or embalming a dead human body remains without first being duly authorized to do so by a:~~

~~(A) relative of the deceased person; or a~~

~~(B) person legally entitled to authorize such the possession or embalming.~~

~~(5) (6) Directing, allowing, or permitting any individual or person who is not a licensee to perform funeral services, as the same are defined in [IC 25-15-2-17](#) to the extent not otherwise exempt under [IC 25-15-2-10](#). This prohibition does not extend to the sale of funeral goods as defined in [IC 25-15-2-14](#).~~

~~(6) (7) A violation of any part of [IC 25-15-2](#) thru through and including [IC 25-15-8](#) or any part of the regulations promulgated thereunder.~~

(State Board of Funeral and Cemetery Service; [832 IAC 2-2-4](#); filed Aug 6, 1986, 10:10 a.m.: 9 IR 3092; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 8. [832 IAC 3-1-1](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 3-1-1](#) Approved college, school, or department of mortuary science

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-4-2](#); [IC 25-15-4-3](#)

Sec. 1. ~~In order for any accredited school or college or department of such accredited school or college to receive the acceptance and approval of the board so as to qualify students thereof for a license to practice funeral directing in the state of Indiana, such school, college or department shall meet all the requirements of law. Such school, college or department shall require each student to attend at least four (4) academic quarters. As a condition to any such approval, or continued approval, the said school, college, or department shall permit a board member, or members, to fully examine and inspect the facilities available for instruction, the instructors, the curriculum and the method of keeping attendance records for students. If at any time there is a change in the curriculum of an approved school, college or department, notice of such change shall be forwarded to the board for approval in advance of such change. Any change in curriculum without the board's prior approval will result in the failure of the board to thereafter recognize said school, college or department as approved and no applications from students will be processed from any school, college or department which is not approved and in good standing with the board.~~ **(a) For purposes of qualifying for licensure under [IC 25-15-4-2\(a\)\(4\)](#) and [IC 25-15-4-3\(b\)\(4\)](#), "accredited college, school, or department of mortuary science approved by the board" means a course of study at a school or college accredited by the American Board of Funeral Service Education, regional association of colleges and schools recognized by the United States Department of Education, or other colleges and schools as approved by the board, which address the areas of the following:**

- (1) Theory and practice of embalming.**
- (2) Restorative art.**
- (3) Pathology.**
- (4) Anatomy.**
- (5) Microbiology.**
- (6) Chemistry.**
- (7) Hygiene.**
- (8) Public health and sanitation.**
- (9) Ethics.**

(b) Schools or colleges offering courses in mortuary science that do not meet the requirements of subsection (a) may be approved by the board upon a finding by the board that the institution substantially complies with the criteria for accreditation established by the American Board of Funeral Service Education.

(State Board of Funeral and Cemetery Service; [832 IAC 3-1-1](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1368; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 9. [832 IAC 3-2-1](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 3-2-1](#) Funeral director internships

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-4-2](#); [IC 25-15-4-3](#)

Sec. 1. (a) The one (1) year experience requirement for licensure as a funeral director provided for by [IC 25-15-4-3\(b\)\(6\)](#) may only be satisfied during the period of time that the applicant has been licensed as a funeral director intern.

(b) An applicant for a funeral director license shall be required to have done the following while The successful completion of a funeral director intern: internship must include the following:

- (1) ~~Worked~~ Working in a funeral home under the direct supervision of a licensed funeral director for at least**

one thousand five hundred (1,500) hours over a period of at least one (1) year.

(2) ~~Assisted~~ **Assisting** in the embalming of at least twenty-four (24) bodies ~~which requirement shall be met by at the rate of~~ at least six (6) embalmings per quarter. ~~during the obtaining of the required one (1) year experience.~~

(3) Assisting in the arrangement, services, and disposition of at least twenty-four (24) bodies at the rate of at least six (6) bodies per quarter.

~~(c) In addition to meeting the requirements contained in [IC 25-15-4-2\(a\)](#), an applicant for licensure as a funeral director intern must provide proof of the successful completion of an examination in the field of funeral service provided for in section 2 of this rule as a condition of licensure.~~

~~(d) (c) Upon expiration of a funeral director intern license issued under [IC 25-15-4-2](#), the holder thereof must pay may extend the license for an additional one (1) year by paying the funeral director intern license fee and otherwise meet meeting the requirements of [IC 25-15-4-2](#) in order to qualify for an additional one (1) year license.~~

(State Board of Funeral and Cemetery Service; [832 IAC 3-2-1](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1368; filed Mar 13, 1987, 8:30 a.m.: 10 IR 1701; filed Oct 12, 1988, 3:55 p.m.: 12 IR 589; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1388; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 10. [832 IAC 3-2-2](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 3-2-2](#) Recognized funeral service intern examination

Authority: [IC 25-15-9-9](#)

Affected: [IC 25-15-4-2](#)

Sec. 2. (a) **In addition to meeting the requirements in [IC 25-15-4-2\(a\)](#), an applicant for licensure as a funeral director intern must provide proof of the successful completion of an examination in the field of funeral service.** An examination conducted by a person other than the board may satisfy the funeral service intern examination requirement ~~under section 1 of this rule~~, provided the examination is preapproved by the board and conducted by a nationally recognized testing service that is under contract with the boards of at least three (3) other states to provide testing and grading in the field of funeral service.

(b) The examination shall consist of two (2) parts, one concerning funeral service science and the other concerning funeral service arts. To pass the examination, an individual must obtain a score of seventy-five percent (75%) or higher for the total examination. If, however, the individual scores less than seventy percent (70%) on either part of the examination, the individual will fail the examination. A score of at least seventy-five percent (75%) is required to pass a retake of either section of the examination.

(State Board of Funeral and Cemetery Service; [832 IAC 3-2-2](#); filed Mar 13, 1987, 8:30 a.m.: 10 IR 1701; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1901; readopted filed Oct 3, 2001, 9:50 a.m.: 25 IR 520; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 11. [832 IAC 3-2-3](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 3-2-3](#) Funeral director intern case reports

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-4-3](#)

Sec. 3. (a) Funeral director interns shall submit to the board a total of four (4) funeral director intern case reports. ~~while obtaining the one (1) year experience required by [IC 25-15-4-3\(b\)\(5\)](#) and [832 IAC 3-2-1](#). These~~ **The** reports shall be submitted on a quarterly basis ~~with the year beginning on~~ **after** the date of the issuance of the funeral director intern license.

(b) The reports required under subsection (a) shall be submitted ~~no~~ **not** later than thirty (30) days after the end of the quarter. ~~An applicant for a Funeral director license may not obtain issuance of the license~~ **applications will be considered incomplete** until all case reports have been submitted.

(c) Funeral director intern **quarterly** case reports shall be on forms provided by the board and shall include a detailed ~~reporting report of any of the embalmings~~ **report of any of the embalmings following funeral services** in which the intern assisted during the quarter which the report covers and an indication of the number of times the intern has assisted or participated: in the following funeral directing services during the quarter:

(1) Embalmings.

- ~~(1) (2)~~ First call.
- ~~(2) (3)~~ Assisting at funerals.
- ~~(3) (4)~~ Preparing death notices.
- ~~(4) (5)~~ Arranging ~~church~~ **funeral or memorial** services.
- ~~(5) (6)~~ Rosary-lodge services.
- ~~(6)~~ ~~arranging the funeral cars;~~
- (7) Preparing death certificates.
- (8) Arranging for organists, soloists, or beauticians.
- (9) Ship-out detail.
- (10) Veterans burials.
- (11) Social Security forms.
- (12) Indigent funerals.
- ~~(13) cemetery~~ **Cemetery** details.
- ~~(14) Assisting in sales room;~~ **the sale of merchandise.**
- (15) Maintenance of funeral establishment and all equipment.
- (16) Preparation of sales tax for each individual service. ~~and~~
- (17) Compliance with Federal Trade Commission rulings.

(d) The funeral director intern case reports shall be signed by the intern and the sponsoring funeral director both of whom shall provide their license numbers.

(State Board of Funeral and Cemetery Service; [832 IAC 3-2-3](#); filed Oct 12, 1988, 3:55 p.m.: 12 IR 589; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 12. [832 IAC 3-2-4](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 3-2-4](#) Requirements for third and subsequent takings of funeral director license examination

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-5-3](#)

Sec. 4. (a) ~~Subsequent to~~ **Following** the second failure of the funeral director examination by an applicant for a funeral director license, ~~said the applicant must complete~~ **provide proof of completion of** five (5) hours of instruction in continuing education courses approved under [832 IAC 4-1](#) before each additional ~~taking of the~~ examination **attempt**.

(b) The continuing education required by subsection (a) must be obtained ~~subsequent to the immediate previous taking of the~~ **not earlier than ninety (90) days before the next examination attempt**.

(c) The continuing education required by subsection (a) shall be ~~in~~ **directly related to** Indiana law ~~pertaining to funeral service law~~.

(d) ~~Subsection (b), (c), and (d) of [832 IAC 4-2-4](#) shall apply to continuing education required by this section except that references to funeral directors, embalmers, or licensees shall be deemed references to the applicants for funeral director licenses described in subsection (a) of this section.~~

(State Board of Funeral and Cemetery Service; [832 IAC 3-2-4](#); filed Oct 12, 1988, 3:55 p.m.: 12 IR 590; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.:

SECTION 13. [832 IAC 3-3-2](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 3-3-2](#) Funeral director license; out of state applicants

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-4-3](#); [IC 25-15-4-5](#)

Sec. 2. (a) An individual who:

(1) is licensed in another state with requirements that are substantially equal to those contained in [IC 25-15-4-3\(b\)](#); and ~~who~~

(2) meets the requirements of this section;

shall be entitled, upon application, to be licensed **by endorsement** as a funeral director.

~~(b) An individual described in subsection (a) must meet the requirements of [IC 25-15-4-3\(b\)\(1\)](#) through [IC 25-15-4-3\(b\)\(4\)](#) and [IC 25-15-4-3\(b\)\(7\)](#).~~

~~(c) An individual described in subsection (a) need not meet the requirements of [IC 25-15-4-3\(b\)\(6\)](#).~~ (b) The individual must take and pass the funeral director examination.

~~(d)~~ (c) An individual described in subsection (a):

(1) whose out of state license has:

(A) been revoked or suspended by the licensing authority in the other state; or

(B) expired; or

(2) has been placed on probation by the licensing authority in the other state;

shall not qualify for a funeral director license.

(State Board of Funeral and Cemetery Service; [832 IAC 3-3-2](#); filed Jan 8, 1989, 9:45 a.m.: 12 IR 1388; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1902; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 14. [832 IAC 3-3-5](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 3-3-5](#) Effect of expired funeral director license

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-4](#)

Sec. 5. An individual who held an Indiana funeral director license ~~which~~ **that** has expired shall not be entitled to a license ~~under this rule.~~ **by endorsement.**

(State Board of Funeral and Cemetery Service; [832 IAC 3-3-5](#); filed Jan 8, 1989, 9:45 a.m.: 12 IR 1389; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 15. [832 IAC 4-1-1](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 4-1-1](#) Continuing education requirements

Authority: [IC 25-1-4](#); [IC 25-15-9-8](#)

Affected: [IC 23-14-31](#); [IC 25-15-2-22](#); [IC 25-15-6-3](#); [IC 30-2-13](#)

Sec. 1. (a) Funeral directors and embalmers must complete a minimum of ten (10) hours of instruction in each two (2) year period (as defined by subsection (b)) in courses ~~which~~ **that** are given by board ~~recognized~~ **approved** sponsors. ~~and which are individually approved by the board with all Courses meeting~~ **must meet** the following

criteria:

- (1) Measurements and reports must be in full hours excluding preparation time with a fifty (50) minute instruction period being equivalent to one (1) hour.
- (2) The number of hours for a specific course will be determined and announced by the sponsor.
- (3) A funeral director or embalmer who attends the same approved continuing education course more than once in the same two (2) year period is entitled to continuing education credit for that course only once.
- (4) A funeral director or embalmer shall not be entitled to any continuing education credit for a course unless he or she attends the entire course.

(b) The two (2) year ~~periods~~ **period** within which funeral directors and embalmers must obtain a minimum of ten (10) hours of continuing education under subsection (a) ~~extend~~ **extends** from January 1 of each odd-numbered year to December 31 of each even-numbered year.

(c) Subject to the provisions of subsection (a)(3), a funeral director or embalmer who attends an approved continuing education course as an instructor ~~in that course~~ is entitled to continuing education credit for that course.

(d) Of the minimum of ten (10) hours of instruction each funeral director and embalmer must complete within each two (2) year period, at least four (4) hours must be in one (1) or more of the following areas:

- (1) Preneed burial services or merchandise under [IC 30-2-13](#).**
- (2) The practice of funeral service under [IC 25-15-2-22](#).**
- (3) The cremation act under [IC 23-14-31](#).**
- (4) The cemetery act under [IC 23-14](#).**

(e) A funeral director or embalmer can complete not more than five (5) hours of continuing education requirements for the two (2) year period through distance learning methods.

(State Board of Funeral and Cemetery Service; [832 IAC 4-1-1](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1369; filed Aug 27, 1987, 2:30 p.m.: 11 IR 93; filed Oct 12, 1988, 3:55 p.m.: 12 IR 590; filed Jun 18, 1990, 3:39 p.m.: 13 IR 2000; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 16. [832 IAC 4-1-2](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 4-1-2](#) Continuing education course requirements

Authority: [IC 25-1-4](#); [IC 25-15-9-8](#)

Affected: [IC 25-15-6-3](#); [IC 25-15-6-5](#)

Sec. 2. To qualify and be included in the continuing education minimum hour requirement, the course must be ~~one which is~~ formally organized, is primarily instructional, and ~~contributes~~ **contribute** directly to professional competence in the practice of funeral service. The following criteria must be met: ~~for course qualifications:~~

- ~~(1) The course is given by a board recognized sponsor and is individually approved by the board. A course will not qualify unless it and its sponsor both have been~~ **must be** approved by the board prior to the time it is conducted.
- (2) An outline of the course is **shall be** prepared and distributed to attendees. The outline shall state the number of applicable continuing education hours.
- (3) The course is at least one (1) instructional hour of fifty (50) minutes in length.
- (4) The course is conducted by a qualified instructor.
- (5) A continuing education hour rating is determined by the sponsor.
- (6) The course must cover one (1) or more of the following subjects:
 - (A) Business administration.
 - (B) Religion.
 - (C) Natural sciences.
 - (D) Management services-systems, cost, budget, merger and acquisition, data processing, etc.
 - (E) Preneed services.
 - (F) Restorative art/embalming.
 - ~~(G) Indiana law pertaining to funeral service.~~

~~(H)~~ **(G)** Funeral service counseling.

~~(I)~~ **(H)** Funeral service merchandising.

~~(J)~~ **(I)** Funeral customs.

~~(K)~~ Sanitation and health control.

(J) Communicable diseases including transmission, sterilization techniques, and risk education methods in the practice of professional services.

(7) The course is not given during meals.

(8) Mandatory annual courses or programs that are taken for the purpose of complying with applicable federal and state laws and regulations of the United States Occupational Safety and Health Administration (OSHA) and the Indiana occupational and safety standards commission are in addition to the continuing education requirements required under this article.

(State Board of Funeral and Cemetery Service; [832 IAC 4-1-2](#); filed Jan 30, 1986, 2:22 p.m.: 9 IR 1373; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1902; filed Jun 18, 1990, 3:39 p.m.: 13 IR 2000; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 17. [832 IAC 4-1-3](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 4-1-3](#) Sponsors

Authority: [IC 25-1-4](#); [IC 25-15-9-8](#)

Affected: [IC 25-15-6-3](#); [IC 25-15-6-5](#)

Sec. 3. (a) ~~A sponsor~~ **All sponsors** of continuing education courses shall ~~be recognized by the board upon the sponsor's submit an~~ application for approval ~~provided the sponsor meets the following requirements on a continuing basis:~~ **by the board. Approved sponsors must do the following:**

(1) **Maintain** an accurate record of course attendance showing date, place, **and name and state board license number** of attendee. ~~and their state board license numbers is kept.~~

(2) **Maintain** a copy of the course outline and the attendance records ~~pertaining thereto is maintained for four~~ (4) years following presentation of the ~~courses by the sponsor.~~ **course.**

(3) ~~The sponsor shall Provide upon request to each funeral director and embalmer who attends a course, a~~ **by an attendee,** verification of attendance ~~which shall state stating~~ the date of the course, the ~~and~~ subject of the course, and the number of continuing education hours.

(b) Notwithstanding subsection (a), continuing education programs sponsored by the following organizations shall be deemed approved and no approval by the board shall be required:

(1) The Indiana Funeral Directors Association.

(2) The Independent Funeral Directors of Indiana.

(3) The National Funeral Directors Association.

(4) The National Funeral Directors & Morticians Association, Inc.

(5) The International Cemetery, Cremation, and Funeral Association.

~~(b)~~ **(c)** The board shall approve sponsors and their individual continuing education courses. The board reserves the right to withdraw such approval for good cause.

(State Board of Funeral and Cemetery Service; [832 IAC 4-1-3](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1369; filed Oct 12, 1988, 3:55 p.m.: 12 IR 591; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 18. [832 IAC 4-2-2](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 4-2-2](#) Continuing education requirements for license reinstatement

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-1-8-6](#); [IC 25-15-6-4](#)

Sec. 2. (a) **In addition to the requirements under [IC 25-15-6-4](#) and [IC 25-1-8-6](#),** in order to restore ~~reinstate~~ an expired funeral director or embalmer license under [IC 25-15-6-4](#), the licensee must ~~have completed~~ **complete**

the continuing education hours required for renewal of the license at the time it expired.

(b) If more than one (1) year has passed since the expiration of the funeral director or embalmer license, the licensee shall be required to obtain five (5) additional hours of continuing education **for each year following expiration. These continuing education hours are in addition to the requirements under subsection (a).**

(c) ~~The Five (5) hours of continuing education obtained to restore~~ **reinstate** an expired license under the requirements of subsection (b) may count toward the licensee's continuing education requirement for the first renewal of the ~~restored~~ **reinstate**d license if they were obtained during the two (2) calendar years immediately prior to the next renewal date following ~~restoration.~~ **reinstatement.**

(State Board of Funeral and Cemetery Service; [832 IAC 4-2-2](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1370; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1389; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 19. [832 IAC 4-2-4](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 4-2-4](#) Application of renewal for license

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-6-3](#); [IC 25-15-6-5](#)

Sec. 4. (a) Funeral directors intending to engage in the practice of funeral directing and embalmers intending to engage in the practice of embalming must biennially renew their licenses by December 31 of each even numbered year using the form provided by the board.

(b) Each funeral director and embalmer must sign a statement ~~in on~~ the renewal form ~~under penalty of perjury:~~ **verifying that all continuing education requirements according to [832 IAC 4-1](#) will have been met by the time of license renewal.**

- ~~(1) that the continuing education course information is substantially correct;~~
- ~~(2) that he attended and completed the courses listed; and~~
- ~~(3) that to his knowledge and belief, the courses meet the requirements of [832 IAC 4-1](#).~~

~~(c) The board may verify any information submitted by a funeral director or embalmer and may request the applicant submit evidence supporting the course information.~~

~~(d) It is the responsibility of each funeral director and embalmer to retain evidence to support a continuing education course taken by him until:~~

- ~~(1) December 31 of the first even numbered year after the completion of the two (2) year period (as defined in [832 IAC 4-1-1\(b\)](#)) for which the course was taken; or~~
- ~~(2) until two (2) years after the course was taken;~~

~~whichever is later. The burden is on the funeral director or embalmer to prove that he has obtained hours during the period of time evidence of the same must be retained.~~

~~(e) The failure of (c) A funeral director or embalmer to provide proof of his timely completion of the required continuing education courses results in expiration of his license.~~ **shall maintain his or her continuing education records for a period of three (3) years following the end of the biennium.**

(d) It is the responsibility of the funeral director or embalmer to verify that courses attended have been approved by the board. Without approval, as provided under [832 IAC 4-1](#), credit will not be given.

(State Board of Funeral and Cemetery Service; [832 IAC 4-2-4](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1370; filed Oct 12, 1988, 3:55 p.m.: 12 IR 592; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1903; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 20. [832 IAC 5-1-0.5](#) IS ADDED TO READ AS FOLLOWS:

[832 IAC 5-1-0.5](#) Licensure procedure

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-4-1](#); [IC 25-15-9-9](#)

Sec. 0.5. (a) Applications for funeral home licensure shall be filed with the board at least thirty (30) days prior to the date the funeral home is scheduled to open for business.

(b) The board shall issue a license to any applicant the board or its designee certifies as having:

- (1)** met the licensure requirements specified in this rule and [IC 25-15-4](#);
- (2)** received a satisfactory rating on an inspection under [IC 25-15-9-9](#); and
- (3)** paid the fee specified in [832 IAC 2-1-2](#).

(c) No funeral home shall be operated or be opened for business prior to the issuance of a funeral home license by the board for that funeral home. Violation of this section shall be grounds for denial of licensure.

(State Board of Funeral and Cemetery Service; [832 IAC 5-1-0.5](#))

SECTION 21. [832 IAC 5-1-1.1](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 5-1-1.1](#) Inspections

Authority: [IC 25-15-9-8](#); [IC 25-15-9-9](#)

Affected: [IC 25-15](#)

Sec. 1.1. (a) An applicant for a funeral home license shall comply with:

- (1)** ~~[IC 25-15](#)~~; and
- (2)** this title;

~~before a license may be issued.~~

(a) All funeral homes shall be subject to inspection by the board or its inspector at all times with or without notice. The inspection shall include the following:

- (1)** The facility.
- (2)** Vehicles used in the funeral business.
- (3)** Grounds contiguous to the funeral home.

~~**(b)** Prior to the issuance of a funeral home license, the proposed funeral home shall be inspected by a representative of the board to determine compliance with requirements of applicable statutes and rules. **under** the following circumstances:~~

- (1)** Prior to the issuance of a funeral home license.
- (2)** When a funeral home moves to a new location.
- (3)** When ownership of a funeral home is changed or otherwise transferred.
- (4)** When major alterations or modifications in the physical structure of a funeral home are made.

(c) The owner of the funeral home shall notify the board at least thirty (30) days before any of the following occur:

- (1)** When a funeral home moves to a new location.
- (2)** When ownership of a funeral home is changed or otherwise transferred.
- (3)** When alterations or modifications in the physical structure of a funeral home are made under section 4 of this rule.

(d) The board or its designee may inspect any funeral home or other facility when a complaint is made or to ensure protection of the public health, safety, and welfare.

(State Board of Funeral and Cemetery Service; [832 IAC 5-1-1.1](#); filed Jan 8, 1989, 9:45 a.m.: 12 IR 1389;

SECTION 22. [832 IAC 5-1-1.2](#) IS ADDED TO READ AS FOLLOWS:

[832 IAC 5-1-1.2](#) Records

Authority: [IC 25-15-9-8](#); [IC 25-15-9-9](#)

Affected: [IC 25-15](#)

Sec. 1.2. (a) All funeral home licensees shall make the following records available to the board for the purposes of examination or inspection:

- (1) The certificate of authority to sell preneed services or merchandise.
- (2) A general price list.
- (3) Bylaws and rules and regulations, if any.
- (4) Financial and accounting records, including the following:
 - (A) Financial statements.
 - (B) General ledger.
 - (C) Accounts receivable.
 - (D) Accounts payable and cash receipts.
 - (E) Journals.
 - (F) Receipt books.
 - (G) Invoices.
- (5) Preneed contracts.
- (6) Other contracts, including at-need sales and contracts for burial rights.
- (7) Mortgages on the property.
- (8) Preneed funeral contract consumer protection trust fund and regulatory trust fund remittances and supporting documentation.
- (9) Records of cancellation requests and refunds given.

(b) All records referenced in subsection (a) must be filed and kept in a secure manner so as to be readily available for inspection. For purposes of this rule, "secure" may include one (1) or more of the following:

- (1) A vault or fireproof container with a properly certified fire resistant capability of at least one (1) hour.
- (2) A computer readable media backed up by diskette, or optical disk, or tape that is stored at an off-site location.
- (3) Microfilm backed up by a security roll stored at an off-site location.
- (4) A duplicate copy of the records referenced in this rule maintained at an off-site location and updated at least quarterly.
- (5) Any other method that would ensure the funeral home licensee can readily produce records for inspection as required under these rules.

(State Board of Funeral and Cemetery Service; [832 IAC 5-1-1.2](#))

SECTION 23. [832 IAC 5-1-3](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 5-1-3](#) Plumbing requirements; back-syphonage protection systems

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-4-1](#); [IC 25-15-8-2](#)

Sec. 3. Each licensed funeral home must have a back-syphonage protection system in keeping with the requirements of the fire prevention and building safety commission and the requirements of local health and building codes. The system at a minimum must be:

- (1) a hydro aspirator with four (4) inch approved vacuum breaker; ~~or~~
- (2) an electro aspirator; ~~or~~
- (3) water service centers with breakers in system; **or**

(4) any other systems approved by the board.

(State Board of Funeral and Cemetery Service; [832 IAC 5-1-3](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1371; filed Mar 13, 1987, 8:30 a.m.: 10 IR 1702; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 24. [832 IAC 5-1-4](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 5-1-4](#) Embalming rooms; construction fixtures; equipment and use requirements

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-4-1](#); [IC 25-15-8-2](#)

Sec. 4. (a) The issuance of a funeral home license and the continued use thereof shall depend among other things on compliance with this section, section 3 of this rule, and the Indiana Plumbing Code, [675 IAC 16](#).

(b) ~~All A funeral homes~~ **home** must be equipped with a fully functional embalming room on the premises of the funeral home. However, persons who own and operate more than one (1) funeral home in a county or adjoining counties may designate one (1) embalming room in one (1) of those funeral homes as the sole embalming room for all of its funeral homes in that county or those adjoining counties. ~~Any funeral home which does not have an embalming room under the provisions of this subsection must notify the board in writing, as to the location of its embalming room, prior to operating~~ A funeral home without an embalming room **must be a funeral home branch location**. In no case may the embalming room for the funeral home **branch location** be located anywhere other than in the county where the funeral home is located or in an adjoining county.

(c) Each embalming room shall be equipped with a separate sink for washing hands **and either one (1) wet hand sanitizer or disinfectant or one (1) dry hand sanitizer**. Hot and cold running water shall be available to the embalming table and separate sink. The embalming room must also have **the following**:

- (1) A working electric exhaust ventilation system vented to the outside of the building.
- (2) Adequate lighting.
- (3) A sterilizing tray ~~at least twenty-seven (27) inches long~~ **enough** for the sterilization of instruments. ~~and~~
- (4) Sufficient equipment for the injection of embalming fluid.

(d) The embalming room shall be maintained with painted (not papered) or tiled walls, and tile, linoleum, ~~cement~~, **sealed concrete**, or other material approved by the board, covering the entire floor.

(e) The top surface of the embalming room operating table shall be of glass, metal, porcelain, stainless steel, or other nonporous material, approved by the board.

(f) All of the openings leading from the embalming room shall have tight-fitting doors and opaque type of glass or of other substantial material ~~screening~~ **that screens** the interior of the **embalming** room at all times from the view of the **general** public. ~~and those who need to be about the building in their different kinds of employment.~~

(g) The embalming room shall be used only for embalming and preparation of human remains and not for storage or any other purpose.

(h) All waste material from an embalming room shall be ~~burned or placed and~~ **properly** disposed of in a septic tank or underground sewer as ~~permitted~~ **required by applicable law**.

(i) The embalming room together with the balance of the funeral home facilities must be maintained in a clean and sanitary condition.

~~(j) Each embalming room shall have three (3) contagious communicable disease packs. These shall consist of, but not be limited to, the following:~~

- ~~(1) One (1) disposable mask.~~
- ~~(2) One (1) disposable head cover.~~

- ~~(3) One (1) disposable smock.~~
- ~~(4) One (1) pair of disposable gloves.~~
- ~~(5) One (1) pair of disposable shoe covers.~~

(State Board of Funeral and Cemetery Service; [832 IAC 5-1-4](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1371; filed Mar 13, 1987, 8:30 a.m.: 10 IR 1702; filed Sep 6, 1988, 2:00 p.m.: 12 IR 28; errata filed Nov 28, 1989, 3:00 p.m.: 13 IR 677; filed Jun 9, 1993, 9:00 a.m.: 16 IR 2618; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 25. [832 IAC 5-2-1](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 5-2-1](#) Display of license

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-4-1](#); [IC 25-15-8-2](#)

Sec. 1. All licenses issued by the board including duplicate licenses required by [832 IAC 5-2-5](#) **section 5 of this rule** shall be displayed **available for viewing** in a public area of the funeral home or facility. ~~The most current inspection certificate given by the board shall be on display in the embalming room or main office.~~ **funeral home branch location.**

(State Board of Funeral and Cemetery Service; [832 IAC 5-2-1](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1371; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 26. [832 IAC 5-2-2](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 5-2-2](#) Required employment of embalmers by unqualified funeral directors

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-8-10](#)

Sec. 2. A funeral home ~~manager~~ **director** who ~~has never been~~ **was not** licensed as an embalmer in Indiana ~~previous~~ **prior** to July 1, 1985, ~~unless his~~ **except where** initial licensure as a funeral **home** director followed said date, shall ~~have in his employ~~ a licensed embalmer or funeral director who has either been licensed under [IC 25-15-15](#) ~~or who has been licensed as an embalmer under [IC 25-15-1](#)~~.

(State Board of Funeral and Cemetery Service; [832 IAC 5-2-2](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1371; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 27. [832 IAC 5-2-4](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 5-2-4](#) Supervised funeral service limited to licensees

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-2-17](#)

Sec. 4. Each act of funeral ~~service~~ **services, as defined at [IC 25-15-2-17](#)**, performed for a funeral home under the direct supervision of a funeral **home** director must be ~~accomplished~~ **performed** by either a funeral **home** director or a funeral **home** director intern. **At-need funeral arrangements must be performed by a licensed funeral home director or a funeral home director intern under the direct supervision of a licensed funeral home director.**

(State Board of Funeral and Cemetery Service; [832 IAC 5-2-4](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1372; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 28. [832 IAC 5-2-5](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 5-2-5](#) Duplicate licenses at all locations where associated

Authority: [IC 25-15-9-8](#)

Affected: [IC 25-15-8-6](#); [IC 25-15-8-11](#)

~~Sec. 5. Every practitioner~~ **Funeral home directors, funeral home director interns, and embalmers** must obtain **provide and make available** a duplicate license for each funeral home **and funeral home branch location** where he is performing services or for which he acts as agent before he may engage in funeral services at or for the affected funeral home as a manager or in any other capacity, **are performed**.

(State Board of Funeral and Cemetery Service; [832 IAC 5-2-5](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1372; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 29. [832 IAC 6-1-1](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 6-1-1](#) Notifications affecting preneed contracts

Authority: [IC 25-15-9-8](#)

Affected: [IC 1-1-7-1](#); [IC 25-15-8-5](#); [IC 30-2](#)

Sec. 1. When a funeral home is sold or when the preneed contracts established under [IC 30-2](#) which that names licensees as beneficiaries are sold, the purchasing licensee **seller** is responsible to notify the ~~settlers~~ **purchasers** of all such preneed contracts affected by the sale, advising them of the ~~same~~ **transaction**. **Notification must be in writing and provided by the seller to the purchasers** by certified **regular** mail ~~return receipt requested~~ **or by any method permitted by [IC 1-1-7-1](#)**.

(State Board of Funeral and Cemetery Service; [832 IAC 6-1-1](#); filed Jan 30, 1986, 2:23 p.m.: 9 IR 1372; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 30. [832 IAC 6-1-3](#) IS ADDED TO READ AS FOLLOWS:

[832 IAC 6-1-3](#) Payment of trust and escrow funds; documentation required

Authority: [IC 30-2](#)

Affected: [IC 25-15-9-8](#); [IC 25-15-9-18](#)

Sec. 3. (a) A trustee or escrow agent acting as a fiduciary, as defined at [IC 30-2-13-11](#) and including an insurance company holding prepaid funeral funds, that disburses funds in a funeral trust or escrow account established under [IC 30-2-9](#), [IC 30-2-10](#), or [IC 30-2-13](#) may do so only when documentation is submitted to the trustee or escrow agent acting as a fiduciary verifying both:

- (1) the death of the individual for whom services were to be provided under contract; and**
- (2) that the beneficiary of the trust has fully performed all funeral and burial services provided for in the contract.**

(b) Presentation of one (1) of the following documents shall be satisfactory verification of proof of death under subsection (a)(1):

- (1) A completed and executed copy of a death certificate.**
- (2) Certification of proof of death from the coroner pending issuance of a death certificate.**
- (3) For burial purposes only, a burial permit.**

(c) Presentation of one (1) of the following documents shall be satisfactory verification of performance of services under subsection (a)(2):

- (1) An invoice for merchandise that reflects the name of the purchaser or beneficiary and the contract number.
- (2) Acknowledgment signed by the purchaser, next of kin, or a person who has authority to designate final disposition of remains, acknowledging that merchandise was delivered or services were performed, as permitted by [IC 25-15-9-18](#).

(d) The beneficiary of the trust shall maintain documentation, in original or electronic format, for at least three (3) years after the date of full performance of the contract.

(State Board of Funeral and Cemetery Service; [832 IAC 6-1-3](#))

SECTION 31. [832 IAC 7-1-1](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 7-1-1](#) Applicability

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-13](#)

Sec. 1. The definitions in [IC 30-2-13](#) and this rule apply throughout this article.

(State Board of Funeral and Cemetery Service; [832 IAC 7-1-1](#); filed Jun 26, 1992, 5:00 p.m.: 15 IR 2453; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 32. [832 IAC 7-2-1](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 7-2-1](#) Preneed contract

Authority: [IC 25-15-9-8](#); [30-2-13-34](#)

Affected: [IC 30-2-13](#)

Sec. 1. (a) It shall be unlawful for any seller doing business within this state to make, either directly or indirectly, by any means, a preneed contract unless it is as follows:

- (1) Made on a form that complies with this article, is written in clear, understandable language, and printed in easy-to-read type, size, and style.
- (2) Identifies, by name, address, and telephone number, the seller, purchaser, and the contract beneficiary, if other than the purchaser, and contains the seller's certificate of authority number and date of contract.
- (3) Clearly discloses that, upon payment in full, all services and merchandise subject to contract are guaranteed as to delivery, or, in the event a contract is funded through a cash installment sale or an insurance policy with a limited death benefit, delivery of services and merchandise may be reduced to the extent of funds actually received at the time delivery is to be made.
- (4) Clearly discloses that if cash advance items are funded in the preneed contract, then, at the time of delivery, funds available shall be applied by the seller to the prepaid services and merchandise and cash advance items in the same proportion as initially funded in the preneed contract.
- (5) Provides that the purchaser may terminate the contract within thirty (30) days of execution, that the contract becomes irrevocable after that time, and an ~~acknowledgement~~ **acknowledgment** by the purchaser that they understand the irrevocable nature of the contract.
- (6) Provides that if the particular merchandise and services specified in the contract are unavailable at the time of delivery, the seller will furnish services and merchandise similar in style and quality of material at least equal in value.
- (7) Clearly discloses the manner in which the preneed contract is to be funded, including, but not limited to:
 - (A) a bank trust;
 - (B) an annuity;
 - (C) a life insurance policy; or
 - (D) a savings account.
- (8) Clearly discloses the purchaser's right to designate a new seller, and place of final disposition, if known.
- (9) Clearly discloses any geographic restrictions and related charges, if any.

(b) Where the particular merchandise and services specified in the contract are unavailable under subsection (a)(6), the seller must advise the purchaser of the substituted merchandise or services and explain how the seller determined the merchandise or services are similar in style and quality of material and at least equal in value.

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-1](#); filed Jun 26, 1992, 5:00 p.m.: 15 IR 2454; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 33. [832 IAC 7-2-4](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 7-2-4](#) Bank trust deposits

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-13-12.5](#)

Sec. 4. Cash or other property received for services or merchandise shall be deposited as required by ~~[IC 30-2-13-12](#)~~. [IC 30-2-13-12.5](#). Subsequent installment payments shall be deposited by the seller within thirty (30) days of the end of the month in which payments are received. **receipt.**

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-4](#); filed Jun 26, 1992, 5:00 p.m.: 15 IR 2454; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 34. [832 IAC 7-2-5](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 7-2-5](#) Cash advance item and sales tax collections

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-13-12.5](#)

Sec. 5. All funds collected by a seller for future payment of cash advance items or sales tax shall be deposited to trust in accordance with ~~[IC 30-2-13-12](#)~~ or ~~[IC 23-14-1-14](#)~~ [IC 30-2-13-12.5](#) and held in trust until the time of delivery. Funds paid **collected as** premiums for life insurance or annuities to fund cash advance items or sales tax shall be paid as premiums to the life insurance company.

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-5](#); filed Jun 26, 1992, 5:00 p.m.: 15 IR 2454; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 35. [832 IAC 7-2-6](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 7-2-6](#) Duplicate contracts

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-13](#)

Sec. 6. In the event of **there is more than one (1) preneed contracts providing the contract to provide the same or similar services or merchandise without a successor seller designated, the contract that is first in time prevails and is valid.** The seller of the **a subsequent contract which is second in time who has not been designated as a successor seller** shall, on demand of the purchaser, refund to the purchaser from trust all funds or other property paid to **the subsequent seller** in the funding of the ~~second~~ **subsequent contract.** **The seller of the subsequent contract** shall execute whatever documents are necessary to effectuate ~~such the~~ transfer or refund.

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-6](#); filed Jun 26, 1992, 5:00 p.m.: 15 IR 2455; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 36. [832 IAC 7-2-7.1](#) IS ADDED TO READ AS FOLLOWS:

[832 IAC 7-2-7.1](#) Inability to perform contractual duties

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-13](#)

Sec. 7.1. (a) A seller who is unable to perform its obligations under a preneed contract for any reason shall give notice to the board and to each preneed contract purchaser under the requirements of [IC 30-2-13-15](#).

(b) A purchaser who receives notice under subsection (a) has thirty (30) days after the date the notice was mailed to designate, under [IC 30-2-13-13](#), a new seller to become the beneficiary of the trust or the designated recipient of the escrow funds. Should the newly designated seller consent to the designation, the original seller shall transfer the unperformed contract and funds held in trust or escrow to the newly designated seller. The newly designated seller shall perform the transferred contract.

(c) A seller who is unable to perform its obligations under a preneed contract and has not been informed by a purchaser regarding a newly designated seller within thirty (30) days of sending notice under subsection (a) shall send the board all unperformed preneed contracts for which there is no newly designated seller. The preneed contracts and all original supporting documentation shall be sent to the board within sixty (60) days after the date the notice required under subsection (a) was mailed by the seller to the purchaser.

(d) Where a purchaser has not designated a new seller, the board shall designate a new seller, subject to acceptance by the new seller of such designation. In selecting a new seller, the board shall consider sellers in the geographic area where the preneed contract is to be performed. Each newly designated seller shall become the beneficiary of the trust or the designated recipient of the escrow funds of the purchaser.

(e) In the event the board is required to designate a new seller, the board's action shall not limit or prohibit a purchaser from exercising the right to further designate a successor seller of the purchaser's choosing under [IC 30-2-13-13](#).

(f) A seller who is unable to perform its obligations under a preneed contract and fails to discharge its responsibilities under [IC 30-2-13-15](#) and this rule may be subject to criminal and civil penalties, as provided by [IC 30-2-13-38](#).

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-7.1](#))

SECTION 37. [832 IAC 7-2-8](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 7-2-8](#) Consumer protection charges

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-13-27](#)

Sec. 8. A seller may elect to include in its sales price the cost of compliance with [IC 30-2-13-27](#), and such charge shall not be subject to the trust requirements of ~~[IC 30-2-13-12](#)~~ [IC 30-2-13](#).

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-8](#); filed Jun 26, 1992, 5:00 p.m.: 15 IR 2455; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 38. [832 IAC 7-2-9](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 7-2-9](#) Consumer protection fund disclosure

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-13](#)

Sec. 9. A seller shall not:

- (1) use;
- (2) employ;
- (3) advertise;
- (4) market; or
- (5) otherwise solicit;

the sale of services or merchandise in such a manner as to publicize the existence of the Preneed Consumer Protection Fund as an inducement to in the promotion of such sale or attempted sale of a preneed contract.

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-9](#); filed Jun 26, 1992, 5:00 p.m.: 15 IR 2455; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 39. [832 IAC 7-2-10](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 7-2-10](#) Excess funds; [IC 30-2-10](#) trust

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-10](#); [IC 30-2-13](#)

Sec. 10. (a) Funeral director sellers required to employ a trust for or escrow authorized by [IC 30-2-10](#) shall compute any excess or refund amount on the difference between the seller's retail price at the time of delivery and the proceeds available from the funding mechanism employed to fund the contract.

~~(b) This section does not apply to cemetery or third party sellers required to employ a trust or escrow authorized by [IC 23-14-1-14](#).~~

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-10](#); filed Jun 26, 1992, 5:00 p.m.: 15 IR 2455; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

SECTION 40. [832 IAC 7-2-12](#) IS AMENDED TO READ AS FOLLOWS:

[832 IAC 7-2-12](#) Requirements to make records available to board

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-13](#)

Sec. 12. (a) Each holder of a certificate of authority and each person required by [IC 30-2-13](#) to obtain a certificate of authority shall, upon demand, provide and make available for inspection and copying any and all detailed records:

- (1) required by ~~[IC 30-2-13-31](#)~~; [IC 30-2-13](#); and
 - (2) necessary to show compliance with ~~[IC 30-2-13-31](#)~~; [IC 30-2-13](#);
- upon request by the board for investigative purposes.

(b) All records shall be maintained in a secure manner in accordance with [832 IAC 5-1-1.2\(b\)](#).

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-12](#); filed Jun 9, 1993, 9:00 a.m.: 16 IR 2423; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: [20070808-IR-832070048RFA](#))

[832 IAC 7-2-13](#) Unlawful inducement

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 23-14-37](#); [IC 30-2-13-13](#)

Sec. 13. (a) "Inducement" means the act or process of a seller to entice or persuade a purchaser or potential purchaser to take a certain course of action with respect to a contract. An inducement can be tangible or intangible as well as direct or indirect.

(b) "Unlawful inducement" means an inducement employed by a seller that is in violation of [IC 30-2-13](#), [IC 23-14-37](#), or these rules.

(c) The advertisement of preneed services or merchandise to the general public does not constitute an unlawful inducement unless the advertisement is false or misleading or otherwise in violation of statute or these rules.

(d) It is an unlawful inducement for a seller to knowingly induce a purchaser to breach an existing contract that provides for prepaid or at-need services or merchandise. It is not an unlawful inducement for a seller to advertise or otherwise inform consumers of their right to transfer their contracts to a successor seller.

(e) A seller engages in an unlawful inducement where the seller knowingly:

(1) induces a purchaser who has the right to designate a successor seller under [IC 30-2-13-13](#) to:

(A) make a designation of a successor seller;

(B) breach an existing contract for prepaid or at-need services or merchandise; or

(C) enter into a prepaid or at-need contract calling for the delivery of similar services or merchandise; or

(2) offers a monetary inducement or the exchange or substitution of free or discounted services or merchandise in an effort to induce a purchaser to change the designation of a seller of prepaid or at-need services or merchandise.

(f) An unlawful inducement occurs where a seller provides free or discounted burial rights as:

(1) an inducement or as a consideration for the transfer of a contract; or

(2) an inducement of a purchaser to change the designation of a seller of prepaid or at-need services or merchandise.

(g) In addition to section 9 of this rule, a seller engages in an unlawful inducement where the seller, as inducement to purchase burial rights in a cemetery or as inducement to purchase preneed or at-need services or merchandise, does any of the following:

(1) Offers, promises, or agrees to resell or repurchase the burial rights.

(2) Pays or offers to pay any sum of money as interest or as a premium for the right to resell or repurchase the burial rights.

(3) Allows a purchaser to convert, substitute, or exchange the purchase of burial rights for the purchase of services or merchandise.

(4) Offers or provides a purchaser with free services or merchandise in exchange for the purchase of other services or merchandise.

(5) Offers or provides a purchaser with cash or gifts with a value of more than fifty dollars (\$50) as inducement to purchase a contract for services or merchandise.

(h) A cemetery owner is not prohibited by subsection (g) from offering or agreeing to repurchase burial rights under a lot exchange plan that:

(1) is entered into with other cemetery owners or through an association of cemetery owners; and

(2) provides for the repurchase of burial rights in case the purchaser should change legal residence to another community and purchases burial rights in a cemetery located in the community of the purchaser's new place of residence.

(i) A seller is not prohibited from offering or providing cash or gifts of a value less than fifty dollars (\$50) as inducements to potential purchasers or new customers as part of the advertisement of goods and services.

(j) Any reference to a seller includes an agent of the seller.

(State Board of Funeral and Cemetery Service; [832 IAC 7-2-13](#))

SECTION 42. [832 IAC 8](#) IS ADDED TO READ AS FOLLOWS:

ARTICLE 8. CONSUMER PROTECTION FUNDS

Rule 1. Preneed Consumer Protection Fund

[832 IAC 8-1-1](#) Definitions

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2-13-29](#)

Sec. 1. The definitions in [IC 30-2-13](#) apply throughout this article.

(State Board of Funeral and Cemetery Service; [832 IAC 8-1-1](#))

[832 IAC 8-1-2](#) Purpose of the preneed consumer protection fund

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 23-14-49-1](#); [IC 30-2](#)

Sec. 2. The purpose of the preneed consumer protection fund established under [IC 30-2-13-28](#) is to provide restitution to the following:

- (1) A purchaser of a preneed contract under [IC 30-2-13](#).
- (2) An individual who has established a funeral trust under [IC 30-2-9](#) or [IC 30-2-10](#).
- (3) An individual who has established a cemetery escrow or trust under [IC 23-14-49-1](#).
- (4) The estate of an individual described in subdivision (1), (2), or (3).
- (5) A funeral home, funeral director, or cemetery owner that performs a defaulted contract when the original seller of the prepaid services or merchandise has defaulted on a contract.

(State Board of Funeral and Cemetery Service; [832 IAC 8-1-2](#))

[832 IAC 8-1-3](#) Requests for restitution

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2](#)

Sec. 3. (a) Requests for restitution from the preneed consumer protection fund shall be subject to the review and approval of the board. The board has complete discretion to allow or reject the requests for restitution in whole or in part.

(b) Requests for restitution from the preneed consumer protection fund must be in writing and on a form prescribed by the board. The following documentation shall be submitted with the request to the board:

- (1) A copy of the original preneed contract.
- (2) Documentation, such as canceled checks or payment receipts, verifying the total funds paid to the

seller on the contract and demonstrating that applicant for restitution has not defaulted on the contract.

(3) Documentation showing that the seller is incapable or has failed to provide the services or merchandise on a preneed contract.

(4) Documentation concerning efforts to obtain reimbursement from the seller, insurance companies, trustees, escrow agent, or others.

(5) Documentation of amounts recovered from any source in partial payment of the loss.

(c) The board has the right to review, investigate, or request additional documentation in order to determine the validity and correct amount of restitution, if any, to be paid.

(State Board of Funeral and Cemetery Service; [832 IAC 8-1-3](#))

[832 IAC 8-1-4](#) Board approval of disbursement

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 25-1-11](#); [IC 30-2-13-33](#)

Sec. 4. (a) The board shall determine to its satisfaction that the seller does not possess the financial means to deliver or provide the prepaid services or merchandise based on a review of any of the following:

(1) A disciplinary proceeding against the seller or other licensee under [IC 25-1-11](#).

(2) Bankruptcy proceedings.

(3) Whether the seller has been acquired by a successor who by law has assumed the obligations of the seller, including the preneed funeral contracts.

(4) Trust or escrow accounts held by or entered into by the seller.

(5) Assets held by the seller.

(b) Disbursements from the preneed consumer protection fund shall be determined after consideration of the following additional criteria:

(1) Whether the seller was licensed to sell preneed services under [IC 30-2-13-33](#) when the contract was entered into.

(2) Whether adequate funds in the preneed consumer protection fund are available.

(3) Whether the requestor of restitution was required to obtain services and merchandise other than from the seller of the preneed contract.

(4) Whether the losses are not otherwise covered, protected, or reimbursable.

(5) Whether the requestor is eligible for or seeking reimbursement from a judgment or other right as a result of criminal or civil litigation.

(6) Whether credit for merchandise delivered or resources still existing in the trust or escrow must be subtracted from the amount of restitution.

(c) Restitution from the preneed consumer protection fund is not available for any of the following:

(1) Defective merchandise or costs associated with reopening a grave in order to take corrective action on defective merchandise.

(2) Services or merchandise not included in the original preneed contract.

(3) Court costs or other fees associated with the original preneed contract.

(State Board of Funeral and Cemetery Service; [832 IAC 8-1-4](#))

[832 IAC 8-1-5](#) Interest

Authority: [IC 25-15-9-8](#); [IC 30-2-13-34](#)

Affected: [IC 30-2](#)

Sec. 5. (a) The amount of restitution shall include interest, calculated at the statutory rate, on the gross amount owed, compounded annually, for each year for which restitution is owed starting from the date of the original preneed contract.

(b) Restitution paid to a funeral home, funeral director, or cemetery owner that performs a defaulted contract shall not exceed the gross amount of the cost of services actually rendered.

(State Board of Funeral and Cemetery Service; [832 IAC 8-1-5](#))

Rule 2. Consumer Protection Fund for Cemetery Maintenance

[832 IAC 8-2-1](#) Definitions

Authority: [IC 25-15-9-8](#)

Affected: [IC 23-14](#); [IC 30-2-13](#)

Sec. 1. The definitions in [IC 30-2-13](#), except for the following, apply throughout this article:

(1) "Cemetery" means a cemetery as defined at [IC 23-14-33-7](#) that is eligible for coverage under [IC 23-14-48.5-1](#).

(2) "Consumer protection fund for cemetery maintenance" means the fund established under [IC 23-14-48.5-4](#).

(3) "Fund" means the consumer protection fund for cemetery maintenance.

(4) "Maintenance" means the care of cemetery grounds and graves in keeping with a properly maintained cemetery and includes the following:

(A) Cutting grass at reasonable intervals.

(B) Raking and cleaning cemetery plots at reasonable intervals.

(C) Pruning shrubs and tress.

(D) Keeping in repair and preserving the following:

(i) Drains.

(ii) Water lines.

(iii) Roads.

(iv) Buildings.

(v) Fences.

(vi) Other structures.

(5) "Request for maintenance assistance" or "request" means a verified complaint filed under [IC 23-14-48.5](#).

(State Board of Funeral and Cemetery Service; [832 IAC 8-2-1](#))

[832 IAC 8-2-2](#) Purpose of the consumer protection fund for cemetery maintenance

Authority: [IC 25-15-9-8](#)

Affected: [IC 23-14-48-10](#); [IC 23-14-48.5](#)

Sec. 2. The purpose of the consumer protection fund for cemetery maintenance is to provide funding for cemetery maintenance when:

(1) a cemetery owner is unable to maintain a cemetery;

(2) the perpetual care fund of a cemetery is depleted or otherwise unavailable; and

(3) interested persons have not organized under [IC 23-14-48-10](#) in order to take over the management, care, and general supervision of the cemetery.

(State Board of Funeral and Cemetery Service; [832 IAC 8-2-2](#))

[832 IAC 8-2-3](#) Request for maintenance assistance

Authority: [IC 25-15-9-8](#)

Affected: [IC 23-14-48-7](#); [IC 23-14-48.5](#)

Sec. 3. (a) A request for maintenance assistance at a cemetery must be in writing and on a form

prescribed by the board.

(b) A request may be filed by the cemetery owner. If the cemetery owner is unable to be determined, the request may be filed by:

- (1) the owner of a lot in the cemetery;
- (2) the next of kin of a lot owner; or
- (3) any other interested person.

(c) The following documentation shall also be considered with the request:

- (1) The accounting and report of the cemetery's perpetual care fund filed with the board under [IC 23-14-48-7](#).
- (2) Other information the board may require in order to determine the validity of the request, including personal appearances as requested.

(State Board of Funeral and Cemetery Service; [832 IAC 8-2-3](#))

[832 IAC 8-2-4](#) Approval or disapproval; notice of termination

Authority: [IC 25-15-9-8](#)

Affected: [IC 23-14-48.5](#)

Sec. 4. (a) The board shall issue its written findings of fact approving or disapproving a request for maintenance assistance within thirty (30) days of its receipt.

(b) An approved request shall be reviewed and revised as necessary at least every ninety (90) days.

(c) Upon the termination of its approval for maintenance assistance, the board shall issue a written notice to the cemetery owner or the person who filed the request under section 3(b) of this rule.

(State Board of Funeral and Cemetery Service; [832 IAC 8-2-4](#))

SECTION 43. THE FOLLOWING ARE REPEALED: [832 IAC 3-3-4](#); [832 IAC 4-1-4](#); [832 IAC 4-2-1](#); [832 IAC 5-2-3](#); [832 IAC 5-2-6](#); [832 IAC 7-1-2](#); [832 IAC 7-1-3](#); [832 IAC 7-1-5](#); [832 IAC 7-1-6](#); [832 IAC 7-1-7](#); [832 IAC 7-1-8](#); [832 IAC 7-1-9](#); [832 IAC 7-2-7](#); [832 IAC 7-2-11](#).

[Notice of Public Hearing](#)

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