

May 2001



**District of
Columbia**

**Department of
Consumer and
Regulatory
Affairs**

**OCCUPATIONAL &
PROFESSIONAL
LICENSING
ADMINISTRATION**

**MUNICIPAL
FUNERAL
DIRECTORS
REGULATIONS**

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director, Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in §4(i) of the District of Columbia Funeral Services Regulatory Act of 1984, D.C. Law 5-84, D.C. Code §2-2803(i) (1987 Supp.), and Mayor's Order No. 87-186 (August 3, 1987), gives notice of the adoption of the following new Chapter 30 (Funeral Directors) of Title 17 DCMR (Business, Industry, and Professions). Comments received in response to the publication as proposed rulemaking at 34 DCR 7873 (December 4, 1987) were considered by the Director. Certain changes were made in the text of the proposed rules. Final rulemaking action was taken on April 7, 1988. These rules are effective on the date of the publication of this notice in the D.C. Register.

This chapter replaces Chapter 23 of Title 17, which was repealed by §22(b) of D.C. Law 5-84.

CHAPTER 30 FUNERAL DIRECTORS

3000 APPLICABILITY

- 3000.1 This chapter applies to applicants for and holders of a license to practice as a funeral director or apprentice funeral director.
- 3000.2 Chapter 6 (General Rules and Procedures) and Chapter 31 (Funeral Services Establishments; Preneed Contracts) of this title supplement this chapter.
- 3000.3 The provisions of this chapter prevail in the event of a direct and irreconcilable conflict between this chapter and Chapter 6 of this title.

3001 GENERAL REQUIREMENTS FOR APPLICANTS

- 3001.1 An applicant for a license under this chapter, in addition to complying with Chapter 6 of this title, shall prove to the satisfaction of the Board that the applicant is at least eighteen (18) years of age.

3002 LICENSURE AS A FUNERAL DIRECTOR BY EXAMINATION

- 3002.1 An applicant for a license under this section shall furnish proof to the Board that the applicant:
- (a) Is a graduate of a high school, by arranging for a certified transcript to be sent directly to the Director from the applicant's high school;
 - (b) Is a graduate of an accredited school or college of mortuary science whose course of instruction is not less than twelve (12) months in duration or is composed of not less than eight hundred and forty (840) hours of study, or has successfully completed a two (2) year course of study leading to an associate degree in mortuary science, by arranging for a complete, certified transcript to be sent directly to the Director from the applicant's school or college of mortuary science;
 - (c) Has had at least two (2) years of practical experience as an apprentice funeral director if he or she is a graduate of a school or college of mortuary science, or at least one (1) year of practical experience if he or she possesses an associate degree in mortuary science, has actually embalmed at least twenty-five (25) human remains, has actually conducted or directed at least twenty-five (25) funerals, and has performed at a satisfactory level, by submitting with the application a signed statement from each funeral director under whose immediate supervision that apprentice funeral director's duties were performed, indicating the number of human remains embalmed by the applicant, the number of funerals conducted or directed during the period of apprenticeship served under the supervision of the funeral director, and a professional evaluation of the applicant's performance; and
 - (d) Has achieved a passing grade on all three (3) parts of the examination specified in §3002.3.
- 3002.2 The practical experience required by §3002.1(c) shall include full-time supervised training in all aspects of the business and practice of funeral directing, including:
- (a) The care, disposal, and preservation, by embalming or otherwise, of human remains;
 - (b) The sale of funeral goods and services; and
 - (c) Business management.

- 3002.3 The examination required by §3002.1(d) consists of the following three (3) parts:
- (a) The national examination approved by the Conference of Funeral Service Examining Boards;
 - (b) An oral examination developed by the Board; and
 - (c) A practical demonstration developed by the Board.
- 3002.4 An applicant shall demonstrate receipt of a passing score (as determined by the Conference of Funeral Service Examining Boards) on the national examination part of the examination by arranging with the National Testing Service to forward a copy of the applicant's results directly to the Director.
- 3002.5 The oral examination part of the examination shall include specific questions on District and federal laws and regulations concerning the practice of funeral directing, including, but not limited to:
- (a) The Anatomical Board, human tissue banks, and anatomical gifts;
 - (b) Vital statistics and containers for cremated human remains;
 - (c) Trafficking in dead bodies;
 - (d) Cemeteries and crematories;
 - (e) Licensing of funeral directors, apprentice funeral directors, and funeral services establishments; and
 - (f) Penalty provisions.
- 3002.6 The practical demonstration part of the examination may include specific oral questions on manual procedures, anatomical considerations and pathological conditions which are relevant to the proper care, preparation and preservation of human remains.
- 3002.7 The Board shall conduct the oral examination and practical demonstration parts of the examination at least two (2) times a year at a date, time, and location determined by the Board.
- 3002.8 An applicant who fails to pass a part of the examination, in order to be eligible for a license, shall file a new application with the Director and pay the required fee. An applicant shall not submit a new application within six (6) months of the date of the examination part failed.
- 3003 LICENSURE AS A FUNERAL DIRECTOR OF CERTAIN PERSONS LICENSED OR PRACTICING ON MAY 2, 1984**
- 3003.1 The following persons are eligible for licensure as funeral directors under this section:
- (a) A funeral director licensed by the District as an undertaker on May 22, 1984;
 - (b) An apprentice funeral director licensed by the District on May 22, 1984, and actively engaged in discharging the duties of a funeral director from January 1, 1973 through January 1, 1983; and
 - (c) A person who on August 1, 1947 would have qualified for licensure under D.C. Code §47-2843(c) (1981), who has discharged the duties of a funeral director from January 1, 1973, through January 1, 1983, and who continues to discharge those duties.
- 3003.2 An applicant described in §3003.1(a) is required to achieve a passing grade, as determined by the Board, on the oral part of the examination administered by the Board pursuant to §3002.
- 3003.3 An applicant described in §3003.1(b) shall:
- (a) Submit an application for licensure within two years of the effective date of this chapter;
 - (b) Submit with the application, as proof that the applicant was discharging the duties of a funeral director during the specified period, the following:
 - (1) Signed statements from each of the funeral directors under whose immediate supervision the applicant's duties were performed during period of January 1, 1973 to January 1, 1983, setting out in detail the nature of the applicant's duties and the period of time over which the applicant performed them for the supervisors; or
 - (2) If permitted by the Board, one or more of the following:
 - (A) Case records, histories, business records, payroll records, or other documents which evidence the applicant's association as an apprentice funeral director with a funeral service establishment;

- (B) The applicant’s income tax returns; or
- (C) The applicant’s military service records;
- (c) Submit a professional evaluation of the applicant’s performance from each supervisor on a form to be prescribed by the Director; and
- (d) Achieve a passing grade, as determined by the Board, on the oral and practical demonstration parts of the examination administered by the Board pursuant to §3002.

3003.4 An applicant described in §3003.1(c) shall:

- (a) Submit an application for licensure within two years of the effective date of this chapter;
- (b) Submit with the application, as proof that the applicant would have qualified for licensure under D.C. Code §47-2843(c) (1981):
 - (1) A verification from the District of Columbia Department of Human Services that the applicant was registered as an undertaker with the District of Columbia Health Department on August 1, 1947; and
 - (2) Signed statements from two (2) persons who were actually engaged, at any time during the five year period immediately preceding August 1, 1947, in discharging the duties of an undertaker, and who were personally aware of the applicant’s professional activities during this period of time, verifying that the applicant was also so engaged at some point during this same five (5) year time period, and describing the extent to which the applicant was so engaged;
- (c) Submit with the application, as proof that the applicant was discharging the duties of a funeral director during the specified period:
 - (1) Signed statements from each of the funeral directors under whose immediate supervision the applicant’s duties were performed during the period of January 1, 1973 to January 1, 1983, setting out in detail the nature of the applicant’s duties and the period of time over which the applicant performed them for the supervisor; or
 - (2) If permitted by the Board, one of the following:
 - (A) Case records, histories, business records, payroll records, or other documents which evidence the applicant’s association as an apprentice funeral director with a funeral services establishment;
 - (B) The applicant’s income tax returns; or
 - (C) The applicant’s military service records;
- (d) Submit a professional evaluation of the applicant’s performance from each supervisor on a form to be prescribed by the Director; and
- (e) Do one of the following:
 - (1) Arrange for a complete certified transcript or copy of a diploma to be submitted to the Board to verify graduation prior to August 1, 1947, from a school or college of embalming whose course of instruction was not less than nine (9) months and which comprised not less than eight-hundred and forty (840) hours of study; or
 - (2) Submit satisfactory evidence, as determined by the Board, of equivalent experience prior to August 1, 1947; and
- (f) Achieve a passing grade, as determined by the Board, on the oral part of the examination administered by the Board pursuant to §3002.

3003.5 Applicants described in §3003.1(b) and (c) shall apply and demonstrate qualifications under the Act and this chapter within two (2) years of the effective date of this chapter.

3003.6 The Director shall provide that a license issued for each one of the three (3) categories described in §3003.1 be color-coded or otherwise distinctively identified to distinguish it from licenses issued for the other two (2) categories of licenses described therein and from other licenses issued pursuant to this chapter.

3004 LICENSURE AS A FUNERAL DIRECTOR BY RECIPROCITY

3004.1 An applicant for a license under this section shall furnish proof to the Board that the applicant:

- (a) Is a graduate of a high school, by arranging for a certified transcript to be sent directly to the Director from the applicant's high school; and
- (b) Is currently licensed and in good standing as a funeral director in a state or territory of the United States wherein the requirements for licensure are substantially equal to or exceed those in effect in the District, and which state or territory admits funeral directors licensed by the District in a like manner, by submitting from the state or territory a current certificate of licensure in good standing and a certificate which verifies that the state or territory admits funeral directors licensed in the District in a like manner.

3004.2 To be licensed under this section, an applicant is required to achieve a passing grade, as determined by the Board, on the oral part of an examination administered by the Board pursuant to §3002.

3005 LICENSURE AS AN APPRENTICE FUNERAL DIRECTOR

3005.1 An applicant for a license under this section shall furnish proof to the Board that the applicant:

- (a) Is a graduate of a high school, by arranging for a certified transcript to be sent directly to the Director from the applicant's high school; and
- (b) Is a graduate of or is enrolled in an accredited school or college of mortuary science whose course of instruction is not less than twelve (12) months in duration or is composed of not less than eight hundred and forty (840) hours of study, or has successfully completed or is enrolled in a two (2) year course of study leading to an associate degree in mortuary science, by arranging for a complete, certified transcript, or certificate of enrollment, to be sent directly to the Board from the applicant's school or college of mortuary science.

3005.2 To be licensed under this section, an applicant shall achieve a passing grade, as determined by the Board, on the oral part of the examination administered by the Board pursuant to §3002.

3006 PERMISSIBLE ACTIVITIES IN THE DISTRICT OF COLUMBIA OF FUNERAL DIRECTORS LICENSED IN MARYLAND AND VIRGINIA—COURTESY CARDS

3006.1 A person licensed as a funeral director in the state of Maryland or Virginia who is not licensed as a funeral director in the District may, in compliance with the requirements of this section, be issued a courtesy card by the Board, which authorizes that person to:

- (a) File in the District a death certificate of a person deceased in the District; and
- (b) Transport human remains to the state where the funeral director is licensed to perform funeral services.

3006.2 A funeral director authorized to transport human remains from the District under this section shall notify the Board in writing within five (5) days of the date the remains were transported. The notice shall state the following:

- (a) The name of the decedent;
- (b) The date of death;
- (c) The date the remains were transported;
- (d) The address in the District, and the name of the hospital or funeral services establishment, if any, from which the remains were transported; and
- (e) The address in Maryland or Virginia to which the remains were transported.

3007 DISPLAY OF LICENSES

3007.1 A license as a funeral director or apprentice funeral director shall be conspicuously displayed in the funeral services establishment at which the licensee is employed.

3008 TERM AND RENEWAL OF LICENSES

3008.1 A license issued or renewed pursuant to this chapter expires at midnight on December 31 of each odd-numbered year unless the Director changes the renewal system pursuant to §606 of Chapter 6 of this title.

- 3008.2 A person who fails to file an application for renewal prior to the expiration date of the license may file a late application within thirty (30) days of the expiration of the license upon payment of the required renewal and late fees, but is not authorized to practice until the license is renewed.
- 3008.3 A license that is not renewed within thirty (30) days of its expiration lapses.
- 3008.4 A license as an apprentice funeral director may not be renewed beyond four (4) years after the date of issuance of the initial license. If the normal term of such a license would extend beyond the expiration of this period, the term of the license shall be shortened so that the four (4) year limitation is not exceeded.

3009-3010 RESERVED

3011 NOTIFICATION OF CHANGE IN ADDRESS OR EMPLOYMENT STATUS

- 3011.1 A person licensed as an apprentice funeral director under this chapter shall, within (5) days of the termination of the person’s employment with a funeral director or funeral services establishment, notify the Director in writing that the person is no longer employed by that funeral director or funeral services establishment. The notification shall include the date on which the employment ceased.
- 3011.2 A funeral director who employs an apprentice funeral director shall notify the Board in writing of the employment or termination of the apprentice funeral director within thirty (30) days of the employment or termination of the apprentice funeral director. The notification shall include the name, street address, and license number of the apprentice funeral director and the date on which the apprentice funeral director was employed or terminated.
- 3011.3 An apprentice funeral director licensed under this chapter whose employment by a funeral director or funeral services establishment is terminated shall, within thirty (30) days of being employed by another funeral director or funeral services establishment, notify the Board in writing of the change in employment. The notification shall include the name, street address, and license number of the funeral director or funeral services establishment under which he or she is continuing the apprenticeship.

3012 DISPUTES OVER THE POSSESSION OF HUMAN REMAINS

- 3012.1 Whenever funeral directors or funeral services establishments have a difference of opinion concerning their legal right to take possession of human remains, they shall refer the matter to the chairperson of the Board for a decision.
- 3012.2 The funeral director or funeral services establishment retained by the individual standing highest in the following order of priority is entitled to take possession of the human remains in dispute:
 - (a) Spouse;
 - (b) Adult child;
 - (c) Parent;
 - (d) Adult sibling;
 - (e) Adult grandchild;
 - (f) Adult nephew or niece;
 - (g) Grandparent;
 - (h) Adult uncle or aunt;
 - (i) Adult child of an uncle or aunt;
 - (j) Great-grandparent;
 - (k) Sibling of a grandparent;
 - (l) Relative of the spouse of the deceased, in accordance with the preceding order of priority; or
 - (m) Adult friend or volunteer.
- 3012.3 The oldest member of a class has a prior claim over other members of the same class.
- 3012.4 For the purposes of this section, the term “adult” means a person who is eighteen (18) years of age or older.

3013 GROUND FOR DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE

3013.1 Upon a finding that an applicant or licensee is engaged in conduct described in §3013.2, the Board, after providing notice and an opportunity for a hearing pursuant to Chapter 6 of this title, may take one or more of the following actions:

- (a) Deny admission to an examination;
- (b) Deny the issuance of a license;
- (c) Suspend or revoke a license;
- (d) Refuse to renew a license;
- (e) Refuse to reinstate a license; or
- (f) Impose a civil penalty

3013.2 The Board may take one or more of the actions described in §3013.1 if it finds that an applicant or licensee:

- (a) Has engaged in any fraud, deceit, or misrepresentation of any material fact in procuring or attempting to procure a license under this chapter or Chapter 31 of this title;
- (b) Has engaged in any unfair, deceptive, or misleading act or practice, or unfair method of competition in the funeral profession, including illegally fixing or maintaining prices or illegally restraining trade;
- (c) Has violated or permitted an employee or agent to violate any provision of the Act, this chapter, Chapter 31 of this title, or federal laws or regulations pertaining to the practice of funeral directing or funeral services establishments;
- (d) Has conspired with, or aided or abetted any person or entity in the violation or circumvention of any provision of the Act, this chapter, Chapter 31 of this title, or federal laws or regulations pertaining to the practice of funeral directing or funeral services establishments;
- (e) Has performed funeral directing services while under the influence of intoxicating liquors or drugs;
- (f) Has engaged in any type of solicitation;
- (h) Has engaged in misrepresentation or fraud in the conduct of the business of a funeral services establishment, as a funeral director, or as an apprentice funeral director;
- (i) Has performed embalming services without specific written authorization by the next of kin, except in the case of a demonstrated emergency where the public health, welfare, or safety would be endangered;
- (j) Has charged in excess of actual out-of-pocket expenditures paid by the funeral services establishment for cash advances and other expenditures, excluding a reasonable charge not exceeding the District's legal interest rate per annum on the unpaid balance not repaid within thirty (30) days.
- (k) Has committed gross negligence in the practice of funeral directing;
- (l) Has been disciplined by a licensing or disciplinary authority or convicted, disciplined, or found civilly liable by a court of any jurisdiction for conduct which would be grounds for denial or disciplinary action under the Act or this chapter, or which bears a substantial relationship to the fitness of the applicant or licensee to be licensed; or
- (m) Has acted in a manner inconsistent with the health, welfare, or safety of the public, including, but not limited to:
 - (1) Permitting anyone other than a licensed funeral director to make arrangements, other than the receipt of preliminary information by telephone, on his or her behalf, or on behalf of any other funeral director or funeral services establishment, with a customer or customer's designee, which arrangements involve the performance of the practice of funeral directing, the sale or rental of funeral goods or services, or the offer, sale, or negotiation of a preneed contract;
 - (2) Exercising undue influence on a customer or misleading a customer;
 - (3) Failing to provide the Board, the Director, or any person or entity with accurate and true notification or documentation as required by law, the Board, or the Director;
 - (4) Soliciting, accepting, or paying any consideration for recommending or causing funeral goods or services, or the services of a crematory, mausoleum or cemetery, to be provided by specific persons or entities, except pursuant to a preneed contract;

- (5) Causing or being knowingly involved in a solicitation which constituted an uninvited invasion of personal privacy, or in a solicitation by phone or at the personal residence of a person;
- (6) Participating in the provision of or providing funeral goods or services pursuant to a preneed contract if the contract was offered, sold or negotiated by a person other than a funeral director licensed in the District and employed by a funeral services establishment which is licensed and endorsed in the District and a party to that contract;
- (7) Offering, selling, negotiating, or participating in the provision of, or providing funeral goods or services pursuant to, a preneed contract which did not fulfill the requirements of Chapter 31 of this title;
- (8) Charging in excess of the amount advanced, paid, or owed to third parties on behalf of the customer, or failing to pass along to the customer any discount, rebate, or other benefit received from third parties for any items of service or merchandise described as cash advances, including, but not limited to:
 - (A) Cemetery or crematory charges;
 - (B) Clergy honoraria;
 - (C) Death certificate transcripts;
 - (D) Escorts;
 - (E) Chevra Kadisha (Tahara);
 - (F) Public transportation;
 - (G) Gratuities
 - (H) Telephone and telegraph charges; and
 - (I) Flowers;
- (9) Suggesting or implying, in any manner, that the customer's expressed concern about prices, inexpensive services or merchandise, or desire to save money, is improper or inappropriate;
- (10) Disparaging before a customer the quality or appearance of merchandise or services advertised or offered for sale;
- (11) Failing to display less expensive merchandise advertised or offered for sale in the same manner and condition as more expensive merchandise;
- (12) Making false, misleading, or unsubstantiated claims directly, or by implication, as to the benefits or quality of funeral merchandise or services;
- (13) Obtaining custody of human remains without explicit prior customer authorization;
- (14) Failing to release promptly human remains and give information about the care, release or whereabouts of human remains upon customer request;
- (15) Failing to post conspicuously and legibly the actual retail price on each item of funeral merchandise displayed for sale;
- (16) Failing to post conspicuously and legibly the actual retail price of funeral merchandise on pictures of the merchandise, when pictures are used for the presentation of merchandise for sale;
- (17) Inducing a customer to consent to change the desired day or time of funeral, burial, or cremation by misstating facts or circumstances related thereto, if such misstatements resulted in:
 - (A) Increased charges for the funeral; or
 - (B) Denial of a customer's desire to have the funeral, burial, or cremation at a particular time, when that particular time was expressed by a customer as an element of the agreement;
- (18) Making a representation, or permitting a representation to be made, that a funeral services establishment was a society, fund, trust or other nonprofit entity, unless the establishment was nonprofit or unless the representation included a conspicuous statement that the establishment was for-profit;
- (19) Revealing personally identifiable facts or information about a decedent or customer which were obtained in the business or practice of funeral directing without the prior consent of the customer, except as authorized or required by law or by the contract between the customer and the funeral director or funeral services establishment;

- (20) Delegating funeral directing responsibilities to a person when the applicant or licensee knew or should have known that the person was not qualified or authorized to perform them;
- (21) Abandoning, neglecting, abusing, or failing to treat human remains with dignity and respect;
- (22) Charging for funeral goods or services that were not specified in the contract and which are not required by law;
- (23) Charging for funeral goods or services that were not provided;
- (24) Failing to provide funeral goods or services specified in the contract; or
- (25) Failing to comply with an order issued by the Board or the Director, or with a negotiated settlement entered into with the Board or the Director.

3013.3 As used in this section, “solicit” means to engage in any annoying or unseemly conduct by an applicant, licensee, or employee or agent of an applicant or licensee including, but not limited to:

- (a) Loitering in or about a hospital, sanitarium, personal care home, or other place for the purpose of soliciting the employment of the licensee’s services;
- (b) Offering, giving, or promising any gratuity or payment, either in money or property, to any person for information concerning human remains;
- (c) Requesting or recommending that a consumer change from another funeral services establishment;
- (d) Engaging in a dispute with another licensee for the possession of human remains; or
- (e) Initiating contact with the next of kin, relations, friends, or associates of the deceased in order to provide funeral service or disposition of the deceased without being contacted by the next of kin or his or her representative, excluding general advertising, the sale of burial insurance, or responses to requests for information by consumers.

3099 DEFINITIONS

3099.1 As used in this chapter the following words and phrases have the meanings ascribed:

Act – the District of Columbia Funeral Services Regulatory Act of 1984, D.C. Law 5-84, D.C. Code §2-2801 to 2-2819 (1987 Supp.).

Board – Board of Funeral Directors for the District of Columbia, established by the Act.

Funeral goods – personal property typically sold or provided in connection with the practice of funeral directing, including caskets, cremation or transportation containers, vaults, grave liners, funeral clothing or accessories, monuments and grave markers.

Funeral services – services rendered in connection with the practice of funeral directing.

Funeral services establishment – a location at which the practice of funeral directing is performed, or, when the context requires, the person or entity which owns the funeral business at that location.

Next of kin – the relatives and priority of relatives as set forth in §3012.2.

Practices of funeral directing – the care, preservation, disposal, or preparation of human remains for funeral services, burial, cremation, or transportation, including the provision of these services pursuant to a preneed contract.

Preneed contract – an agreement under which consideration is to be paid prior to the death of the beneficiary for funeral goods or services to be provided after the beneficiary’s death.

Purchaser – a person responsible for paying consideration for funeral goods and services pursuant to a preneed contract.

Service fee – the amount charged for accounting, record keeping and other administrative costs relating to a preneed contract.

3099.2 The definitions in §699 of Chapter 6 of this title are incorporated by reference and apply to this chapter.