

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
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1270

05.0009.1150

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4-28-86
DATE FOR REVIEW 5-7-86
DATE DUE 5-12-86

Adopted w/a hearing _____
Adopted w/o hearing _____
Temporary rule _____

Approved May 9, 1986 mjc Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 5-9-86 Revisor approved _____ disapproved _____

✓ Rule as Adopted

_____ Rule as Proposed

✓ Order Adopting 4.25.86 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 2.13.86 contains small biz statement + comments

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
3.20.86 At least 30 days prior to hearing/adoption

✓ Mailing list Certificate

✓ Publication in State Register
3.24.86 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness - and attachments
Dept. Finance approval of fees is attached

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

✓ Compliance with 14.115, subd. 4 (b)

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: SISTER MARY MADONNA ASHTON
Commissioner of Health

DATE: 5/9/86

ATTN: ROBERT T. HOLLEY
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of Amendments to Chapter 4610 Department of Health Rules Pertaining to Morticians, Fundera lDirectors, and the Disposition of the Dead

The above-referenced rule has been approved as to its legality by the Attorney General on May 9, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1270

Department of Health

Adopted Rules Relating to Health, Morticians, Funeral Directors, Fees, and Licensing

Rules as Adopted

4610.0200 RESIDENT TRAINEE IN MORTUARY SCIENCE.

A person shall be permitted to register as a resident trainee after that person has completed 45 credit hours or 30 semester hours, during the first year of academic training as provided in Minnesota Statutes, section 149.03.

All service in mortuary science shall be performed by a resident trainee under the direction of and responsibility of the licensed person under whom the trainee is registered. A trainee shall be registered under only one mortician at any given time.

A licensed mortician shall have only one trainee registered to him or her at any given time.

4610.0300 RESIDENT TRAINEE REGISTRATION.

Resident trainee registration with the commissioner of health shall show the date on which the traineeship began, the name and address of the mortician under whom the trainee is registered, and the name and address of the company, corporation, or firm of which the mortician is the owner, partner, or employee. Discontinuance of training or transfer to some other mortician for service as a trainee shall be immediately reported to the commissioner of health. The trainee shall file with the commissioner of health not less than 25 case reports upon the forms provided by the commissioner, which shall be signed by the mortician under whom the trainee is registered.

The application for the initial or renewal registration shall be accompanied by a registration fee in an amount specified in part 4610.2800. The initial and renewal registration shall be issued for the calendar year for which application is made and shall expire on December 31 of each

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year. Renewal applications and fees shall be submitted no later than December 31 of the year preceding the year for which application is made.

Trainee registration shall be permitted for no more than three years; provided that for good cause the Mortuary Science Advisory Council may extend the registration for an additional period not to exceed one year.

4610.0400 MORTICIANS' QUALIFICATIONS.

Subpart 1. **Requirements.** Every person who wishes to qualify to engage in the practice of mortuary science shall comply with the following requirements.

Subp. 2. **License.** An applicant shall apply to the commissioner of health for a license. The application shall contain the full name of the applicant, age, mailing address, and other pertinent identifying information as the commissioner may require.

Subp. 3. **Age and education.** The applicant shall be at least 18 years of age and shall have successfully completed a minimum of 60 semester or 90 quarter credits at an accredited college or university with credit evaluation in course areas as follows: communications, 12 quarter credits to include speech and English; the social sciences, 20 quarter credits to include sociology and psychology; natural science, 20 quarter credits to include general or inorganic chemistry and biology; health education (to include personal or community health) 4 quarter credits; and elective areas, 34 quarter credits. Following this academic work, the applicant shall have completed and have secured a verification of completion of the prescribed course of study from any college of funeral service education accredited by the American Board of Funeral Service Education.

Subp. 4. **Examination.** After these education qualifications in the order specified have been acquired, the applicant shall attain a satisfactory level of achievement in a comprehensive examination, approved by the commissioner of health in subjects related to the practice of mortuary science

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as the commissioner may prescribe. If an applicant for a license to practice mortuary science has satisfactorily passed the National Board Examination given by the Conference of Funeral Service Examining Boards of the U.S., Inc., and is so certified to the commissioner by the conference, the commissioner shall, subject to the criteria listed below, accept the results of the National Board Examination and require the applicant to pass an examination on the laws of Minnesota and the rules of the commissioner pertaining to registration of deaths, embalming, transportation, disposition of dead human bodies, and funeral directing. In order to accept the results of the National Board Examination, the commissioner shall first determine that the knowledge and skills assessed by the examination adequately and accurately evaluate the knowledge and skills needed for actual job performance and ensure that the public health is protected. An applicant who fails to attain a satisfactory level of achievement on any examination given by or on behalf of the commissioner may be reexamined.

Subp. 5. **Experience.** After successful completion of required examinations the applicant shall serve at least one year as a trainee in mortuary science under a mortician licensed by the state of Minnesota. During this period the applicant shall be registered as a trainee in mortuary science with the commissioner and shall participate under the supervision of a mortician in embalming at least 25 bodies and in the arrangements and direction of at least 25 funerals.

4610.0500 LICENSE APPLICATION, RENEWAL, AND ENDORSEMENT FEES.

Subpart 1. **Examination fee.** An applicant for examination for a license in mortuary science, shall submit an application to the commissioner on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800.

Subp. 2. **License fee.** When the applicant has successfully completed the examination and all other requirements for original license, the applicant shall submit to the commissioner a license application on a form provided by the commissioner and

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a fee in an amount specified in part 4610.2800 payable to, the treasurer, state of Minnesota, after which the license shall be issued.

Subp. 3. **License by endorsement.** An applicant for a license in mortuary science by endorsement without examination as to qualifications pursuant to Minnesota Statutes, section 149.03, subdivision 2, shall submit an application on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800. The applicant shall pass an examination on the Minnesota laws and rules relating to mortuary science prior to licensure.

Subp. 4. [See Repealer.]

Subp. 5. **License issuance and renewal.** Initial and renewal mortuary science licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of that year.

Renewals shall be obtained on an annual basis. Application for license renewal, together with the renewal fee in an amount specified in part 4610.2800 shall be submitted to the commissioner on forms provided no later than December 31 of the year preceding the year for which application is made. Failure to submit the renewal application and fee by the date specified above shall result in an increase in the fee in an amount specified in part 4610.2800. If the renewal application and fee are not submitted within 31 days after the expiration date, the license shall automatically lapse.

4610.0600 FUNERAL DIRECTORS.

Subpart 1. **Licensing requirement.** Every person who wishes to qualify to engage in the practice of funeral directing under Minnesota Statutes, chapter 149, shall comply with the following requirements.

The applicant shall submit two affidavits from ordained religious leaders of the applicant's faith substantiating the beliefs and convictions of the applicant's faith which forbids the practice of embalming.

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The applicant shall be at least 18 years of age, shall have satisfactorily completed at least two years at an accredited college or university with approximate credit evaluation in course areas as follows: speech and English, 12 quarter credits; the social sciences, 20 quarter credits; natural science, 20 quarter credits; health education (to include personal or community health) 4 quarter credits, and elective areas, 34 quarter credits. Following such academic work applicants shall have completed a course of study and submit the applicant's official transcript from any school of mortuary science accredited by the American Board of Funeral Service Education in order to verify completion of all credits with the exception of embalming.

After the educational qualifications in the order specified have been acquired, the applicant shall have served at least one year as a trainee in funeral directing under a Minnesota licensed mortician. During the period of practical experience or traineeship the applicant shall have been registered as a trainee in funeral directing with the commissioner and shall have participated under supervision in the arranging and direction of at least 25 funerals. The applicant shall attain a satisfactory level of achievement in a comprehensive written examination given by the commissioner in such subjects as anatomy, microbiology, business methods, chemistry, funeral service directing and funeral service management, pathology, Minnesota laws and rules as they apply to mortuary science, and the practice of funeral directing. An applicant who fails to attain a satisfactory level of achievement may be reexamined at the discretion of the commissioner.

Subp. 3. **Application for license.** An applicant for a funeral directors license, by examination, shall submit an application on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800.

Subp. 4. **Renewal.** Initial or renewal funeral director licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of such

year. Renewals shall be obtained on an annual basis. Applications for license renewal, together with the renewal fee in an amount specified in part 4610.2800, shall be submitted no later than December 31 of the year preceding the year for which application is made. Failure to submit the renewal application and fee within 31 days of the date specified above shall result in an automatic lapse.

Subp. 5. [See Repealer.]

4610.0650 FUNERAL ESTABLISHMENT PERMIT.

Applications for an original or renewal permit to operate a funeral establishment must be submitted on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800. Original permits are effective from the day of issuance to the next June 30. Renewal permits must be issued on an annual basis from July 1 to June 30 of the following year. Failure to submit the renewal application and fee by the expiration date results in an increase in the fee in an amount specified in part 4610.2800. If the renewal application and fee are not paid within 31 days after the expiration date, the permit automatically lapses.

4610.0700 COMMUNICABLE DISEASE DEATHS, PRIVATE FUNERALS.

Only morticians shall be permitted to take charge of the remains of persons who have died of any communicable disease. When such body is to be transported, preparation shall be in accordance with part 4610.1000.

When death is due to communicable disease, the funeral shall be private if so directed by the commissioner.

For purposes of this part, a private funeral is a funeral service where contact and viewing of the dead human body may be restricted or limited because of the cause of death to ensure the public's health, safety, and welfare.

4610.0800 TRANSPORTATION OF THE DEAD.

The transportation of dead human bodies is governed by this part. When a dead human body is transported by public

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transportation to a destination outside the state, it must be embalmed. Only a person licensed to engage in the practice of mortuary science shall remove a dead human body from the place of death. Following preparation and embalming of the body, either a mortician or a funeral director shall have charge of such body for the purposes of transportation and final disposition.

This part does not apply to nor shall it in any way interfere with the duties of any officer of any public institution, or with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of mortuary science, or to any person engaged in the performance of duties prescribed by law relating to the conditions under which indigent dead human bodies are held subject to anatomical study; duly authorized personnel from a licensed ambulance service in the performance of their duties; the coronor or medical examiner in the performance of the duties of the office as prescribed by Minnesota Statutes, chapter 390; or to the customs or rites of any recognized religion in the burial of their dead.

4610.0900 TRANSPORTATION PERMIT.

A burial-removal-transit permit shall be required for each dead human body transported by automobile, aircraft, rail, bus, or any other conveyance. It shall be issued by the local registrar of the place of death or a subregistrar or, if necessary to avoid delay, by the state registrar.

It shall contain the information required on the permit form as furnished by the commissioner and be properly signed by the local registrar or a subregistrar, the mortician or funeral director, and the person in charge of the conveyance. When the cause of death is a communicable disease the permit shall be signed by the mortician who prepared the body. Where a firm name is used in the signing of the burial-removal-transit permit it shall be supported by the personal signature of a licensed member of the firm.

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The burial-removal-transit permit shall be given to the person in charge of the remains, or attached to the transportation container, and in either case delivered with the body at the destination.

4610.1000 TRANSPORTING DEAD OF ANY COMMUNICABLE DISEASE.

Subpart 1. **Communicable diseases.** The removal and transportation of bodies dead of communicable diseases as specified in part 4605.7040 shall be permitted only under the conditions in subparts 2 to 4.

Subp. 2. **Covering body before removal.** Before removal by any of the conveyances authorized by part 4610.1500, other than by public transportation, the body shall be wrapped in a waterproof sheet, properly covered and encased in a secure pouch, and transported on a regulation ambulance cot, or on an aircraft ambulance stretcher. Sanitary precautions in the preparation for removal and in the removal shall be observed for the protection of the public health.

Subp. 3. **Embalming.** In all cases of communicable disease deaths the body shall be embalmed within 18 hours after death. When a body, dead from a communicable disease, is held by a medical institution beyond 18 hours, the body must be embalmed as soon as possible after that time. Embalming shall include both arterial and cavity treatment, all orifices, discharging sinuses, and areas of broken skin closed with absorbent cotton and the body washed with a disinfecting fluid.

Subp. 4. **Public transportation use.** When public transportation is to be used, embalming is mandatory and an acceptable container shall be used.

4610.1100 TRANSPORTING DEAD BY AIRCRAFT.

The transportation of human dead bodies by aircraft shall be permitted under the following conditions.

When the destination is outside the state, a body transported by aircraft shall be first embalmed. It shall be transported on a regulation ambulance cot, or aircraft ambulance stretcher. When transported by public air carrier it shall be

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embalmed and enclosed in an acceptable container.

Where a death caused by a disease listed as communicable in part 4605.7040 occurs in a remote and inaccessible locality, the body in an emergency may be brought by aircraft to the nearest point having facilities and there embalmed and prepared, as provided in parts 4610.0700 to 4610.1800, before being transported further by aircraft.

4610.1200 TRANSPORTING DEAD OF NONCOMMUNICABLE DISEASE.

The transportation of human bodies dead of noncommunicable disease shall be permitted under the following conditions:

A. When the destination will be reached within 18 hours after death, the body shall be enclosed in a casket and a tight outside container. When transportation is to be made by automobile or aircraft, the outside container may be omitted, or the casket and outside container may both be omitted, and in such case the body shall be properly covered and encased in a secured pouch or impermeable sheet and transported on an ambulance cot or aircraft ambulance stretcher.

B. When the destination will not be reached within 18 hours after time of death or if held by a medical institution beyond the 18 hours' notice of release from place of death, the body shall be thoroughly embalmed and transported in accordance with the provisions in item A. Final disposition must be accomplished within 72 hours for all unembalmed bodies. Refrigeration is not considered a form of preservation or disinfection and does not alter the 72-hour rule.

4610.1300 TRANSPORTING DISINTERRED BODIES.

No disinterred body dead from any disease or cause shall be transported unless approved, as is required by parts 4610.2400 to 4610.2700, by the health authorities having jurisdiction. A burial-removal-transit permit signed by the local registrar or a subregistrar, as provided in part 4610.0900, is required.

All disinterred remains shall be enclosed in a sound, tight container and not thereafter opened, provided that bodies in a receiving vault when prepared by morticians shall not be

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regarded as disinterred bodies unless the health officer so rules.

4610.1500 CONVEYANCES PERMITTED.

In the transportation of any dead body, all conveyances or vehicles shall have ample enclosed area to accommodate an ambulance cot or aircraft ambulance stretcher in a horizontal position and shall be so designed as to permit loading or unloading without excessive tilting of the cot.

4610.1550 REMOVAL OF INFANTS.

Any body measuring less than 36 inches may be transported in a passenger automobile after having been properly covered and encased.

For purposes of this part "passenger automobile" means a motor vehicle designed and used for carrying not more than ten persons, including station wagons, but excluding motorcycles and motor scooters.

4610.1600 MOVING BODIES LOCALLY.

When parts 4610.0800 to 4610.1550 do not apply, embalming is not required if the body is to be buried or cremated within 72 hours after death.

4610.1700 FORBIDDEN COMPOUNDS IN EMBALMING CHEMICALS.

No embalming fluid containing compounds of arsenic, mercury, zinc, or other poisonous metals shall be sold or used in Minnesota for or in the embalming of dead human bodies.

In the transport of the dead in Minnesota when embalming is carried out, the fluid shall be of a quality and used in sufficient quantity to properly embalm the body.

4610.1800 TRANSPORTATION CONTAINER.

Every transportation container shall bear at least four handles and when over five feet six inches in length shall bear six handles.

4610.1900 OPENING OF DISINTERRED CASKETS.

The opening of caskets containing disinterred remains is

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forbidden except when ordered by a court of competent jurisdiction.

4610.2000 CREMATED REMAINS.

Cremation of a dead human body shall be considered as a final disposition of that body. No additional permit covering transportation, interment, or other disposition of cremains, or concerning the kind of container in which the cremains are placed for preservation or transportation is required. When cremation is selected as a method of disposition, cremation must be accomplished 72 hours from the time of death on all unembalmed bodies.

When a container or urn for cremains is offered or provided, it shall be of adequate size to enclose the entire cremains. Commingling of cremains shall not be permitted without written permission from next of kin.

4610.2100 SERVING OF FOODSTUFFS IN FUNERAL ESTABLISHMENTS.

In the interest of safeguarding public health, safety, welfare, and sanitation, the serving of food to the public in a funeral establishment is prohibited. For the purpose of this part, beverages served in single use disposable containers shall not be considered food.

4610.2200 PERMIT FOR DISINTERMENT AND REINTERMENT.

No person except a mortician, and then only after first having obtained a permit from the local health officer and the local registrar or a subregistrar, as hereinafter prescribed, shall disinter the body of a deceased person; provided, the authorities in charge of a cemetery may transfer bodies buried therein from one part of the cemetery to another part thereof with the approval and under supervision of the local health officer. Any person desiring a permit shall first secure from the person in charge of the cemetery records a written statement showing that the body is buried in that cemetery and give the name of deceased, age at the time of death, date of death, cause of death, and date of burial. A person shall present this

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statement to the proper local health officer and make application for permission to disinter and remove the body.

Provided, if there is no cemetery record then a statement by relatives of the deceased or other competent person or persons who are empowered to cause such disinterment and removal shall be presented. If the health officer has cemetery records of the cemeteries in the municipality of the health officer and a record of interment, no written statement need be secured or filed.

The local health officer shall question the applicant as to the manner in which it is proposed to disinter, handle, and dispose of the remains, and shall give and enforce directions for disinterment, removal, and reinterment as necessary for the protection of the public health. The local health officer shall notify the local registrar or subregistrar orally or in writing that the application has been approved. The applicant shall apply to the registrar or subregistrar, who shall issue in duplicate a written disinterment-reinterment permit, using the burial-removal-transit form provided by the commissioner of health for original interments and noting on the forms the words "disinterment-reinterment permit."

The mortician shall give the sexton or person in charge of any cemetery, burial place, or other premises in which the disinterment is made, a duplicate copy of the disinterment-reinterment form. The sexton or person in charge shall not inter or permit the interment or other disposition of the disinterred body of a deceased person until a disinterment-reinterment permit is received.

4610.2300 SANITARY CONDITION OF FUNERAL ESTABLISHMENTS.

Subpart 1. [See Repealer.]

Subp. 2. **Preparation and embalming room.** All preparation and embalming rooms shall be maintained in a sanitary manner at all times. A properly lighted and ventilated preparation and embalming room shall be provided in every funeral establishment. It shall have a nonporous floor which shall be

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kept clean and free of dust, dirt, refuse, and other contaminates. Each room must have a nonporous preparation and embalming table. The floor, walls, and ceiling of the preparation and embalming room and all embalming tables, dressing tables, temporary tables, removal cots, stretchers, and transportation containers shall be kept in a clean and sanitary condition.

The embalming and preparation room shall be provided with a water supply approved by the department of health. Waste from the embalming process shall be directed to an open fixture which is properly vented and connected to the building drainage system. Where a municipal sewerage system is available, the building drainage system shall be discharged into the municipal sewage system; where such a system is not available, the building drainage system must be discharged into a satisfactory private system of waste disposal. There shall be no connection or other arrangement from any plumbing fixture or device whereby unsafe water or other foreign material may be discharged or drawn into a safe water supply. Every plumbing fixture, receptacle, and water supply tank shall be provided with a proper air gap or other acceptable device to prevent backflow into the water supply. (See appendix to plumbing code.)

Subp. 3. **Removal of waste.** Refuse, bandages, cotton, and other wastes shall be collected in approved receptacles as provided in the embalming and preparation room. All waste shall be handled in a sanitary manner and destroyed by incineration. Embalming tables, hoppers, sinks, receptacles, instruments, positioning blocks, and other appliances used in the embalming of dead human bodies shall be thoroughly cleaned immediately upon completion of preparation and embalming.

4610.2400 DEFINITIONS.

Subpart 1. **Application.** For the purposes of parts 4610.0200 to 4610.2800, the words, terms, and phrases listed in this part shall have the meaning stated, unless the language and context clearly indicates that a different meaning is intended.

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Subp. 1a. **Alternative container.** "Alternative container" means a rigid container other than a casket used for burial, cremation, or entombment of a dead human body.

Subp. 2. [See Repealer.]

Subp. 3. **Cash advance item.** "Cash advance item" means any item of merchandise or service described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services, casket bearers, public transportation, clergy honoraria, flowers, musicians or singers, obituary notices, gratuities, and death certificates.

Subp. 4. **Casket.** "Casket" means a container commonly used to enclose a dead human body for the purposes of the funeral and final disposition.

Subp. 4a. **Commissioner.** "Commissioner" means commissioner of the Department of Health.

Subp. 4b. **Cremains.** "Cremains" means the ashes of a dead human body.

Subp. 5. **Cremation.** "Cremation" means the use of direct flames or intense heat to reduce the dead human body to ashes and inorganic bone fragments.

Subp. 6. **Destination.** "Destination" means the city or town of final disposition.

Subp. 6a. **Direct cremation.** "Direct cremation" means a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

Subp. 7. [See Repealer.]

Subp. 8. **Embalming.** "Embalming" means a process of chemically treating the dead human body to reduce the presence and growth of organisms, to retard organic decomposition and to restore an acceptable physical appearance.

Subp. 9. **Funeral service.** "Funeral service" means the rites or ceremonies associated with the disposition of a dead

human body with the body present.

Subp. 9a. **Funeral establishment.** "Funeral establishment" has the meaning given the term in Minnesota Statutes, section 149.08.

Subp. 9b. **Funeral goods.** "Funeral goods" means goods that are sold or offered for sale directly to the public for use in connection with funeral services.

Subp. 10. [See Repealer.]

Subp. 10a. **Immediate burial.** "Immediate burial" means a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present.

Subp. 10b. **Memorial service.** "Memorial service" means the rites or ceremonies without the body present.

Subp. 10c. **Outer burial container.** "Outer burial container" means a container that is designed for placement in the grave into which the casket is placed including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

Subp. 11. **Preparation of the body.** "Preparation of the body" includes such items of care as washing, disinfecting, shaving, positioning of features, restorative procedures, care of hair, dressing, and casketing.

Subp. 12. **Professional services.** "Professional services" includes the provision of staff for arrangements, visitations, funeral, memorial service, final disposition, counseling, and administrative services such as securing and preparing necessary documents.

Subp. 12a. **Public transportation.** "Public transportation" means all forms of transportation available to the general public including airlines, buses, and rail.

Subp. 13. **Transportation costs.** "Transportation costs" includes the vehicle used for the initial transfer of the deceased, funeral coach, funeral sedans, flower car, service/utility car, and the use of public transportation where needed ~~,-and-others~~.

Subp. 14. **Use of facilities.** "Use of facilities" means:

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A. provision of chapel or room for the funeral or memorial service and/or provision of facilities for parking, arrangement offices, and other administrative purposes; and

B. provision of chapel or room for visitation/reviewal.

4610.2500 ITEMIZATION OF FUNERAL COSTS.

At the time funeral arrangements are made the mortician or funeral director shall give or cause to be given to the person(s) making arrangements, a written disclosure with the items and costs listed separately as required by Minnesota Statutes, section 149.09, subdivision 1.

As a minimum the disclosure shall include a statement of charges for casket, outer burial container, use of facilities for reviewal, use of facilities for funeral services, specifically itemized transportation costs, specifically itemized funeral goods, embalming, preparation of the body, other professional services, anticipated cash advances and expenditures, and if applicable, forwarding of remains, receiving of remains, immediate burials, and direct cremations. When cremation is the method of final disposition the disclosure shall have printed in conspicuous print: "Minnesota law does not require that remains be placed in a casket before or at the time of cremation."

A copy of the itemized statement of funeral goods and services selected shall be given the person(s) making funeral arrangements. The contract shall be signed by both parties and the funeral establishment shall retain a copy for three years thereafter.

If the charge for any item is not known at the time the contract is entered into, the establishment representative shall give his/her best estimate of the charges and advise the purchaser(s) of the exact charge as soon as the information becomes available.

No funeral establishment shall bill or cause to be billed any item that is referred to as acash advance item unless the

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net amount paid for such item or items by the funeral establishment is the same as is billed to the funeral establishment. The term "net" is not meant to include any discounts that may be allowed for prompt payment by the funeral establishment.

4610.2700 FORM OF AUTHORIZATION TO EMBALM.

The written authorization statement shall be as follows:

Authorization to Embalm

I authorize _____ and its staff, agents or representative to embalm the body of _____. I am a relative of the deceased and/or am entitled to custody of the deceased. I understand that embalming is required by Minnesota law as provided by parts 4610.0800 to 4610.1600.

1) The deceased is to be sent out of state by public transportation,

2) Death is due to communicable disease,

3) More than 18 hours will elapse from time of death to arrival at the destination, or

4) Final disposition of the deceased is longer than 72 hours after death.

_____
name, relationship

_____
name, establishment representative

4610.2800 FEES.

Subpart 1. **Generally.** Fees for registration, examination, and licenses under parts 4610.0200 to 4610.0600 are in subparts 2 and 3.

Subp. 2. **Mortuary science fees.** The following fees are mortuary science fees:

A. trainee registration and renewal fee, $25;

B. examination fee, $50;

C. original license fee, $40;

D. license by endorsement, $200;

E. renewal fee, $40; and

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F. renewal fee late charge, $10.

Subp. 3. **Funeral directors.** The following fees are funeral director fees:

A. application fee, $50;

B. renewal fee, $40; and

C. renewal fee late charge, $10.

Subp. 4. **Funeral establishments.** The following fees are funeral establishment fees:

A. funeral establishment permit fee, $110;

B. renewal permit fee, $110; and

C. renewal permit late charge, $15.

RENUMBERING INSTRUCTION. Renumber parts 4610.0200 as 4610.0410; 4610.0300 as 4610.0420; and 4610.2100 as 4610.2210.

REPEALER. Minnesota Rules, parts 4610.0500, subpart 4; 4610.0600, subpart 5; 4610.1400; 4610.2300, subpart 1; and 4610.2400, subparts 2, 7, and 10; are repealed.

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REVISOR OF STATUTES
OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 9 1986
Joan Anderson Growe
Secretary of State
2:51 P.M.

APPROVED AS TO FORM AND LEGALITY
May 9 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassidy
SPECIAL ASSISTANT ATTORNEY GENERAL

(8)

AG copy

Note: the strike-out + underlinings are not changes to Rules as proposed

Department of Health

Proposed Rules Relating to Health, Morticians, Funeral Directors, Fees, and Licensing

adopted

Rules as ~~Proposed~~

4610.0200 RESIDENT TRAINEE IN MORTUARY SCIENCE.

~~No~~ A person shall be permitted to register as a resident trainee ~~until he shall have~~ after that person has completed 45 credit hours or 30 semester hours, during the first year of academic training as provided in Minnesota Statutes, section 149.03.

~~No~~ All service in mortuary science ~~may~~ shall be performed by a resident trainee ~~except~~ under the ~~personal~~ direction of and ~~in the presence~~ responsibility of the licensed person under whom ~~he~~ the trainee is registered ~~or under another licensed mortician in the same establishment~~. A trainee shall be registered under only one mortician at any given time.

~~No one may at one and the same time be registered under more than one mortician~~ A licensed mortician shall have only one trainee registered to him or her at any given time.

4610.0300 RESIDENT TRAINEE REGISTRATION.

Resident trainee registration with the commissioner of health shall show the date on which ~~such~~ the traineeship began, the name and address of the mortician under whom ~~he~~ the trainee is registered, and the name and address of the company, corporation, or firm of which ~~such~~ the mortician is the owner, partner, or employee. Discontinuance of ~~such~~ training or transfer to some other mortician for service as a trainee shall be immediately reported to the commissioner of health. The trainee shall file with the commissioner of health not less than 25 ~~comprehensive~~ case reports upon the forms provided by the commissioner, which shall be signed by the mortician under whom the trainee is registered. ~~If the mortician under whom one is registered is not the owner or manager of the establishment in~~

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~~which-such-mortician-and-his-trainee-are-working,-then-in-such case-all-trainee-case-reports-and-all-statements-concerning-the period-of-training,-in-addition-to-being-signed-by-the-mortician under-whom-registered,-shall-also-be-approved-and-signed-by-the employer-of-such-mortician-and-trainee.~~

The application for the initial or renewal registration shall be accompanied by a ~~$10~~ registration fee in an amount specified in part 4610.2800. The initial and renewal registration shall be issued for the calendar year for which application is made and shall expire on December 31 of ~~such~~ each year. Renewal applications and fees shall be submitted no later than December 31 of the year preceding the year for which application is made.

~~Effective-January-1,-1969,-mortuary-science~~ Trainee registration shall be permitted for no more than three years; ~~provided,-however,~~ that for good cause the ~~Committee-of Examiners-in~~ Mortuary Science Advisory Council may extend the registration for an additional period not to exceed one year.

4610.0400 MORTICIANS' QUALIFICATIONS.

Subpart 1. **Requirements.** Every person who wishes to qualify ~~as-competent~~ to engage in the practice of mortuary science shall comply with the following requirements.

Subp. 2. **License.** An applicant shall apply to the ~~Minnesota~~ commissioner of health for a license. The application shall contain the full name of the applicant, age, mailing address, and ~~such~~ other pertinent identifying information as the commissioner may require.

Subp. 3. **Age and education.** The applicant shall be at least 18 years of age and shall have successfully completed a minimum of 60 semester or 90 quarter credits at an accredited college or university with credit evaluation in course areas as follows: communications, ~~15~~ 12 quarter credits to include speech and English; the social sciences, ~~18~~ 20 quarter credits to include sociology and psychology; natural science, ~~21~~ 20 quarter credits to include general or inorganic chemistry and

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biology ~~or zoology~~; health education (to include personal or community health) 4 quarter credits; and elective areas, ~~36~~ 34 quarter credits. Following this academic work, the applicant shall have completed and have secured a verification of completion of the prescribed course of study from any college of ~~mortuary science~~ funeral service education accredited by the ~~Conference of Funeral Service Examining Boards of U.S., Inc., or~~ the American Board of Funeral Service Education.

Subp. 4. **Written Examination.** After these education qualifications in the order specified have been acquired, the applicant shall attain a satisfactory level of achievement in a comprehensive examination, approved by the commissioner of health in ~~such~~ subjects related to the practice of mortuary science as the commissioner may prescribe. If an applicant for a license to practice mortuary science has satisfactorily passed the National Board Examination given by the Conference of Funeral Service Examining Boards of the U.S., Inc., and is so certified to the commissioner by the conference, ~~effective January 1, 1976,~~ the commissioner shall, subject to the criteria listed below, accept the results of the National Board Examination and require the applicant to ~~successfully~~ pass an examination on the laws of ~~the state of~~ Minnesota and the rules of the commissioner pertaining to registration of deaths, embalming, transportation, disposition of dead human bodies, and funeral directing. In order to accept the results of ~~such~~ the National Board Examination, the commissioner shall first determine that the knowledge and skills assessed by the examination adequately and accurately evaluate the knowledge and skills needed for actual job performance and ensure that the public health is ~~adequately served and~~ protected. An applicant who fails to attain a satisfactory level of achievement on any examination given by or on behalf of the commissioner may be reexamined ~~on application at the next examination~~.

Subp. 5. **Experience.** After successful completion of required examinations the applicant shall serve at least one year as a trainee in mortuary science under a mortician licensed

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by the state of Minnesota. During ~~such~~ this period ~~of~~ ~~experience~~ the applicant shall be registered as a trainee in mortuary science with the commissioner and shall ~~assist~~ participate under the supervision of a mortician in embalming at least 25 bodies and in the arrangements and direction of at least 25 funerals.

4610.0500 LICENSE APPLICATION, RENEWAL, AND ENDORSEMENT FEES.

Subpart 1. Examination fee. An applicant for examination for a license in mortuary science, shall submit an application ~~therefor~~ to the commissioner on forms provided by the commissioner ~~of health~~ together with a fee ~~of $25~~ in an amount specified in part 4610.2800.

Subp. 2. License fee. When the applicant has successfully completed the examination and all other requirements for original license, the applicant shall submit to the commissioner a license application on a form ~~prescribed~~ provided by the commissioner and a fee ~~of $25~~ in an amount specified in part 4610.2800 payable to, the treasurer, state of Minnesota, after which the license shall be ~~duly~~ issued.

? incorrect - but this is not subject to our Review.

Subp. 3. License by endorsement. An applicant for a license in mortuary science by endorsement without examination as to ~~technical qualification~~ qualifications pursuant to Minnesota Statutes, section 149.03, subdivision 2, shall submit an application ~~therefor~~ on forms provided by the commissioner ~~of health~~ together with a fee ~~of $75~~ in an amount specified in part 4610.2800. The applicant shall ~~prior to licensure~~ pass an examination on the Minnesota laws and rules relating to mortuary science ~~only~~ prior to licensure.

Subp. 4. [See Repealer.]

Subp. 5. License issuance and renewal. Initial and renewal mortuary science licenses ~~or courtesy cards~~ shall be issued for the calendar year for which application is made and shall expire on December 31 of that year.

Renewals ~~thereof~~ shall be obtained on an annual basis. Application for license ~~or courtesy card~~ renewal, together with

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the renewal fee ~~of $25~~ in an amount specified in part 4610.2800 shall be submitted to the commissioner ~~of health~~ on forms provided no later than December 31 of the year preceding the year for which application is made. Failure to submit the renewal application and fee by the date specified above shall result in an increase in the fee ~~to $35~~ in an amount specified in part 4610.2800. If the renewal application and fee are not submitted within 31 days after the expiration date, the license ~~or courtesy card~~ shall automatically lapse. ~~Such persons shall be required to apply for a new license and meet all the requirements therefor.~~

4610.0600 FUNERAL DIRECTORS.

Subpart 1. Licensing requirement. Every person who wishes to qualify ~~as competent~~ to engage in the practice of funeral directing, under ~~laws of~~ Minnesota ~~1959, chapter 395~~ Statutes, chapter 149, shall comply with the following requirements.

~~Subp. 2. Application content and affidavit. He shall make application to the Minnesota commissioner of health for a license. Such application shall contain the name of the applicant in full, age, and place of residence. It shall be accompanied by affidavits from at least two reputable residents of the county in which the applicant resides certifying that the applicant is of good moral character.~~ The applicant shall ~~also~~ submit two affidavits from ordained religious leaders of ~~his~~ the applicant's faith substantiating the beliefs and convictions of the applicant's faith which forbids the practice of embalming.

The applicant shall be at least ~~21~~ 18 years of age, shall have satisfactorily completed at least two years at an accredited college or university with approximate credit evaluation in course areas as follows: speech and English, ~~15~~ 12 quarter credits; the social sciences, ~~16~~ 20 quarter credits; natural science, ~~27~~ 20 quarter credits; health education (to include personal or community health) 4 quarter credits, and elective areas, ~~32~~ 34 quarter credits. Following such academic work applicants shall have completed a course of study ~~at the~~

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~~Department of Mortuary Science at the University of Minnesota or~~ and submit the applicant's official transcript from any school of mortuary science accredited by the American Board of Funeral Service Education in order to verify completion of all credits with the exception of embalming.

~~Such courses to include a minimum of 21 quarter credits in mortuary management, 29 quarter credits in the mortuary arts and sciences exclusive of any courses in embalming theory and practice.~~

After the educational qualifications in the order herein specified have been acquired, the applicant shall have served at least one year as a trainee in funeral directing under a Minnesota licensed mortician. During the period of practical experience or traineeship the applicant shall have been registered as a trainee in funeral directing with the commissioner ~~of health~~ and shall have ~~assisted~~ participated under supervision in the arranging and direction of at least 25 funerals. The applicant shall attain a satisfactory level of achievement in a comprehensive written examination given by the commissioner ~~of health~~ in such subjects as anatomy, ~~bacteriology~~ microbiology, business methods, chemistry, ~~mortuary~~ funeral service directing and funeral service management, pathology, ~~public health~~ Minnesota laws and ~~regulations~~ rules as they apply to mortuary science, and the practice of funeral directing. ~~At the discretion of the commissioner, a practical examination in funeral directing may also be required.~~ An applicant who fails to attain a satisfactory level of achievement may be reexamined ~~on application at the next annual examination~~ at the discretion of the commissioner.

Subp. 3. **Application for license.** An applicant for a funeral directors license, by examination, shall submit an application ~~therefor~~ on forms provided by the commissioner ~~of health~~ together with a fee ~~of $25~~ in an amount specified in part 4610.2800.

Subp. 4. **Renewal.** Initial or renewal funeral director licenses shall be issued for the calendar year for which

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application is made and shall expire on December 31 of such year. Renewals ~~thereof~~ shall be obtained on an annual basis. Applications for license renewal, together with the renewal fee ~~of $25~~ in an amount specified in part 4610.2800, shall be submitted no later than December 31 of the year preceding the year for which application is made. Failure to ~~so~~ submit the renewal application and fee within 31 days of the date specified above shall result in an automatic lapse ~~in the license which shall not thereafter be reinstated~~.

Subp. 5. [See Repealer.]

4610.0650 FUNERAL ESTABLISHMENT PERMIT.

Applications for an original or renewal permit to operate a funeral establishment must be submitted on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800. Original permits are effective from the day of issuance to the next June 30. Renewal permits must be issued on an annual basis from July 1 to June 30 of the following year. Failure to submit the renewal application and fee by the expiration date results in an increase in the fee in an amount specified in part 4610.2800. If the renewal application and fee are not paid within 31 days after the expiration date, the permit automatically lapses.

4610.0700 COMMUNICABLE DISEASE DEATHS, PRIVATE FUNERALS.

Only morticians shall be permitted to take charge of the remains of persons who have died of any communicable disease. When such body is to be ~~shipped~~ transported, preparation shall be in accordance with part 4610.1000.

When death is due to communicable disease, the funeral shall be ~~strictly~~ private ~~when the death has been due to diphtheria or smallpox. In the case of a smallpox death the casket shall be hermetically or permanently sealed~~ if so directed by the commissioner.

~~A private funeral allows only the presence of those individuals who have been in immediate contact with the deceased within 21 days before the death occurred, the morticians, and a~~

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~~minister-who-shall-be-present-only-when-the-morticians-in-charge of-the-funeral-are-also-present-and-who-shall-be-directed-by-the morticians-as-to-the-precautions-to-be-taken.--If-individuals who-have-been-in-such-immediate-contact-with-the-deceased-are not-to-be-present-at-the-funeral-a-private-funeral-need-not-be held.--Attendance-at-interment-is-limited-to-those-enumerated herein.~~

For purposes of this part, a private funeral is a funeral service where contact and viewing of the dead human body may be restricted or limited because of the cause of death to ensure the public's health, safety, and welfare.

4610.0800 ~~REGULATIONS-GOVERNING~~ TRANSPORTATION OF THE DEAD.

~~When-a-dead-human-body-is-transported-by-common-carrier-to a-destination-outside-the-state,-it-shall-be-embalmed-and transported-in-accordance-with-the-transportation-regulations-of the-commissioner-of-health.--The-transportation-of-dead-human bodies-shall-be-governed-by-the-transportation-regulations adopted-by-the-Minnesota-commissioner-of-health.~~ The transportation of dead human bodies is governed by this part. When a dead human body is transported by public transportation to a destination outside the state, it must be embalmed. Only a ~~mortician~~ person licensed to engage in the practice of mortuary science shall ~~call-for-and-embalm-the-body-of-a-person-whose death-is-caused-by-a-disease-listed-as-communicable-in-part 4610.1000~~ remove a dead human body from the place of death. Following preparation ~~of-the-body-by-embalming~~ and embalming of the body, either a mortician or a funeral director shall have charge of such body for the purposes of transportation and final disposition.

This part does not apply to nor shall it in any way interfere with the duties of any officer of any public institution, or with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of mortuary science, or to any person engaged in the performance of duties prescribed by law relating to the

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conditions under which indigent dead human bodies are held subject to anatomical study; duly authorized personnel from a licensed ambulance service in the performance of their duties; the coronor or medical examiner in the performance of the duties of the office as prescribed by Minnesota Statutes, chapter 390; or to the customs or rites of any recognized religion in the burial of their dead.

4610.0900 TRANSPORTATION PERMIT.

A burial-removal-transit permit shall be required for each dead human body transported ~~by-common-carrier,-and-in-all-cases when-transported~~ by automobile, aircraft, rail, bus, or any other conveyance ~~in-lieu-of-common-carrier~~. It shall be issued by the local registrar of the place of death or a subregistrar or, if necessary to avoid delay, by the state registrar.

It shall contain the information required on the permit form as furnished by the commissioner ~~of-health~~ and be properly signed by the local registrar or a subregistrar, the mortician or funeral director, and the person in charge of the conveyance. When the cause of death is a communicable disease the permit shall be signed by the mortician who prepared the body. Where a firm name is used in the signing of the burial-removal-transit permit it shall be supported by the personal signature of a licensed member of the firm.

The burial-removal-transit permit ~~may~~ shall be given to the person in charge of the remains, or attached to the ~~shipping~~ transportation container, and in either case delivered with the body at the destination ~~to-the-sexton-or-other-person-in-charge of-the-cemetery,-or-to-the-health-officer-in-cities-that-have local-ordinances-requiring-burial-permits-by-him-in-all-cases.~~

~~Officials,-agents,-and-employees-of-all-public transportation-facilities-throughout-the-state-of-Minnesota shall-not-receive-for-transportation-a-dead-human-body-unless the-body-is-accompanied-by-a-burial-removal-transit-permit properly-completed-and-signed.~~

4610.1000 TRANSPORTING DEAD OF ANY COMMUNICABLE DISEASE.

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Subpart 1. **Communicable diseases.** The removal and transportation of bodies dead of ~~the following~~ communicable diseases as specified in part 4605.7040 shall be permitted only under the conditions in subparts 2 to 4~~:~~.

~~Actinomycosis~~
~~Anthrax~~
~~Botulism~~
~~Brucellosis (Undulant Fever)~~
~~Chickenpox (over 16 years of age)~~
~~Cholera, Asiatic~~
~~Conjunctivitis, Epidemic~~
~~Gonorrhea~~
~~Hepatitis, Infectious~~
~~Hepatitis, Serum~~
~~Mononucleosis, Infectious~~
~~Ophthalmia Neonatorum~~
~~Paratyphoid Fever~~
~~Plague~~
~~Pneumonia~~
~~Poliomyelitis~~
~~Psittacosis~~
~~Rabies~~
~~Rheumatic Fever~~
~~Ringworm of the Scalp~~
~~Rocky Mountain Spotted Fever~~
~~Smallpox~~
~~Streptococcal Diseases, including Scarlet Fever and Epidemic Sore Throat~~
~~Diarrhea, Epidemic~~
~~Diptheria~~
~~Dysentery~~
~~(a) Amebic~~
~~(b) Bacillary~~
~~Encephalitis (all types)~~
~~Glanders~~
~~Syphilis~~
~~Trachoma~~
~~Trichinosis~~
~~Influenza~~
~~Leprosy~~
~~Leptospirosis~~
~~Malaria~~
~~Measles~~
~~Meningitis (all types)~~
~~Tuberculosis~~
~~Tularemia~~
~~Typhoid Fever~~
~~Typhus Fever~~
~~Whooping Cough (Pertussis)~~
~~Yellow Fever~~

Subp. 2. **Covering body before removal.** Before removal by any of the conveyances authorized by part 4610.1500, other than by ~~common carrier~~ public transportation, the body shall be ~~properly covered and encased in a zipper pouch, bag, or~~ wrapped in a waterproof sheet, properly covered and encased in a secure pouch, and transported ~~in a standard mortuary basket,~~ on a regulation ambulance cot, or on an aircraft ambulance stretcher. ~~All~~ Sanitary precautions in the preparation for removal and in the removal shall be observed for the protection of the public health.

Subp. 3. **Embalming.** In all cases of communicable disease deaths the body shall be embalmed ~~as soon as practicable, and when the destination will not be reached~~ within 18 hours after death, ~~the body shall be thoroughly embalmed before transportation~~. When a body, dead from a communicable disease, is held by a medical institution beyond 18 hours, the body must be embalmed as soon as possible after that time. Embalming shall include both arterial and cavity treatment, all orifices

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and, discharging sinuses, and areas of broken skin closed with absorbent cotton and the body washed with a disinfecting fluid.

Subp. 4. Common-carrier Public transportation use. When a common-carrier public transportation is to be used, embalming is mandatory and both a casket and an outside acceptable container shall be provided used.

4610.1100 TRANSPORTING DEAD BY AIRCRAFT.

The transportation of human dead bodies by aircraft shall be permitted under the following conditions.

When the destination is outside the state, a body transported by aircraft shall be first thoroughly embalmed. It may shall be transported in a standard mortuary basket, on a regulation ambulance cot, or aircraft ambulance stretcher. When transported by common public air carrier it shall be embalmed and enclosed in a casket and tight outside an acceptable container.

Where a death caused by a disease listed as communicable in part 4610.1000 4605.7040 occurs in a remote and inaccessible locality, the body in an emergency may be brought by aircraft to the nearest point having facilities and there thoroughly embalmed and prepared, as provided in these rules parts 4610.0700 to 4610.1800, before being transported further by aircraft.

4610.1200 TRANSPORTING DEAD OF NONCOMMUNICABLE DISEASE.

The transportation of human bodies dead of noncommunicable disease shall be permitted under the following conditions:

A. When the destination will be reached within 18 hours after death, the body shall be enclosed in a casket and a tight outside container. When transportation is to be made by automobile or aircraft, the outside container may be omitted, or the casket and outside container may both be omitted, and in such case the body shall be properly covered and encased in a zipper secured pouch, bag, or waterproof impermeable sheet and transported in a standard mortuary basket, on a regulation an ambulance cot, or on an aircraft ambulance stretcher.

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B. When the destination will not be reached within 18 hours after time of death or if held by a medical institution beyond the 18 hours' notice of release from place of death, the body shall be thoroughly embalmed and ~~shipped~~ transported in accordance with the provisions in item A. Final disposition must be accomplished within 72 hours for all unembalmed bodies. Refrigeration is not considered a form of preservation or disinfection and does not alter the 72-hour rule.

4610.1300 TRANSPORTING DISINTERRED BODIES.

No disinterred body dead from any disease or cause shall be transported unless approved, as is required by parts 4610.2400 to 4610.2700, by the health authorities having jurisdiction. A burial-removal-transit permit signed by the local registrar or a subregistrar, as provided in part 4610.0900, is required.

All disinterred remains shall be enclosed in a sound, tight ~~box~~ container and not thereafter opened, provided that bodies in a receiving vault when prepared by morticians shall not be regarded as disinterred bodies unless the health officer so rules. ~~In-townships-having-no-physician-as-medical-health officer-for-the-township,-a-body-shall-be-regarded-as disinterred-after-the-expiration-of-30-days-from-the-time-of death.~~

4610.1500 ~~KIND-OF~~ CONVEYANCES PERMITTED.

In the transportation of any dead body ~~the-following conveyances-may-be-used:--baggage-or-express-car,-boat,-hearse, ambulance,-any-standard-automobile-properly-designed-and manufactured-for-the-transportation-of-dead-human-bodies,-any wagon-or-sleigh,-or-airplane,~~ all such conveyances or vehicles shall have ample enclosed area to accommodate ~~a-standard mortuary-basket,-a-regulation~~ an ambulance cot, or aircraft ambulance stretcher in a horizontal position and shall be so designed as to permit loading or unloading without excessive tilting of the cot ~~or-basket~~.

4610.1550 REMOVAL OF INFANTS.

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Any body measuring less than 36 inches may be transported in a passenger automobile after having been properly covered and encased.

For purposes of this part "passenger automobile" means a motor vehicle designed and used for carrying not more than ten persons, including station wagons, but excluding motorcycles and motor scooters.

4610.1600 MOVING BODIES LOCALLY.

When ~~the transportation rules~~ parts 4610.0800 to 4610.1550 do not apply, embalming is not required if the body is to be buried or cremated within 72 hours after death.

4610.1700 ~~ARSENICAL~~ FORBIDDEN COMPOUNDS IN EMBALMING ~~FLUIDS~~ CHEMICALS.

No embalming fluid containing compounds of arsenic, mercury, zinc, or other poisonous metals shall be sold or used in Minnesota for or in the embalming of dead human bodies ~~for burial~~.

~~Provided that in case it appears necessary to hold a dead human body for 30 days or more before burial, the county coroner after an investigation by him as to the cause of death may issue a written order permitting the use of compounds of arsenic, mercury, zinc, or other poisonous metals in the preservation of such body.~~

In the ~~shipment~~ transport of the dead in Minnesota when embalming is carried out, the fluid shall be of a quality and used in sufficient quantity to properly embalm the body.

4610.1800 ~~OUTSIDE~~ TRANSPORTATION CONTAINER.

Every ~~outside~~ transportation container shall bear at least four handles and when over five feet six inches in length shall bear six handles.

4610.1900 OPENING OF ~~SEALED~~ DISINTERRED CASKETS.

The opening of ~~hermetically sealed~~ caskets containing disinterred remains ~~of persons dead from any cause and shipped for burial in Minnesota~~ is hereby forbidden except when so

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ordered by a court of competent jurisdiction.

4610.2000 ~~ASHES-OF-THE-DEAD~~ CREMATED REMAINS.

Cremation of a dead human body shall be considered as a final ~~disposal~~ disposition of that body. No additional permit covering transportation, interment, or other ~~disposal~~ disposition of ~~ashes-of-a-cremated-body~~ cremains, or concerning the kind of container in which ~~such-ashes~~ the cremains are placed for preservation or transportation is required. When cremation is selected as a method of disposition, cremation must be accomplished 72 hours from the time of death on all unembalmed bodies.

When a container or urn for cremains is offered or provided, it shall be of adequate size to enclose the entire cremains. Commingling of cremains shall not be permitted without written permission from next of kin.

4610.2100 SERVING OF FOODSTUFFS IN FUNERAL ESTABLISHMENTS.

In the interest of safeguarding public health, safety, welfare, and sanitation, the serving of food to the public in a funeral establishment is prohibited. For the purpose of this part, beverages served in single use disposable containers shall not be considered food.

4610.2200 PERMIT FOR DISINTERMENT AND REINTERMENT.

No person except a mortician, and then only after first having obtained a permit ~~therefor~~ from the local health officer and the local registrar or a subregistrar, as hereinafter prescribed, shall disinter the body of a deceased person; provided, the authorities in charge of a cemetery may transfer bodies buried therein from one part of ~~such~~ the cemetery to another part thereof with the approval and under supervision of the local health officer. Any person desiring ~~such~~ a permit shall first secure from the ~~actuary-or-secretary-or-other~~ person in charge of the cemetery records a written statement showing that ~~such~~ the body is buried in that cemetery and ~~giving-thereon~~ give the name of deceased, age at the time of death, date of

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death, cause of death, and date of burial. ~~He~~ A person shall present this statement to the proper local health officer and make application for permission to disinter and remove ~~such~~ the body.

Provided, if there is no ~~such~~ cemetery record then ~~such~~ a statement by relatives of the deceased or other competent person or persons who are empowered to cause such disinterment and removal shall be presented. ~~Provided further,~~ If the health officer has cemetery records of the cemeteries in ~~his~~ the municipality of the health officer and a record of ~~such~~ interment, no ~~such~~ written statement need be secured or filed ~~with him~~.

The local health officer shall question the applicant as to the manner in which it is proposed to disinter, handle, and dispose of the remains, and shall give and enforce ~~such~~ directions for disinterment, removal, and reinterment as ~~he~~ ~~deems~~ necessary for the protection of the public health. ~~Such~~ The local health officer shall ~~thereafter~~ notify the local registrar or subregistrar orally or in writing ~~if he~~ that the application has been approved ~~such application~~. The applicant shall ~~thereupon~~ apply to the registrar or ~~to a~~ subregistrar, who shall issue in duplicate a written disinterment-reinterment permit, using ~~for such purpose~~ the burial-removal-transit form ~~now~~ provided by the commissioner of health for original interments and noting ~~thereon~~ on the forms the words "disinterment-reinterment permit."

The mortician shall ~~furnish~~ give the sexton or person in charge of any cemetery, burial place, or other premises in which the disinterment is made, a duplicate copy of the disinterment-reinterment form. The sexton or person in charge ~~of the final resting place~~ shall not inter or permit the interment or other disposition of the disinterred body of a deceased person until ~~he receives~~ a disinterment-reinterment permit is received.

4610.2300 SANITARY CONDITION OF ~~MORTUARIES~~ FUNERAL

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ESTABLISHMENTS.

Subpart 1. [See Repealer.]

Subp. 2. Preparation and embalming room. All ~~mortuaries and funeral directing establishments~~ preparation and embalming rooms shall be maintained in a sanitary manner at all times. A properly lighted and ventilated preparation and embalming room shall be provided in every ~~mortuary or~~ funeral ~~directing~~ establishment. It shall have a ~~tile, terrazzo, concrete, composition, or linoleum-covered~~ nonporous floor which shall be kept ~~in a smooth and easily cleanable condition and made free and clear~~ clean and free of dust, dirt, refuse, and other ~~contaminations~~ contaminates. ~~The operating or embalming table shall have a tile, metal, or other hard surface sanitary top~~ Each room must have a nonporous preparation and embalming table. The ~~floors and~~ floor, walls, and ceiling of the preparation and embalming room and all embalming ~~or~~ tables, dressing tables, ~~portable couches, cooling boards~~ temporary tables, removal cots, stretchers, and ~~transfer cases~~ transportation containers shall be kept in a clean and sanitary condition.

~~Subp. 3. Embalming room.~~ The ~~operating or~~ embalming and preparation room shall be provided with ~~an adequate~~ a water supply approved by the department of health. ~~Liquid~~ Waste from the ~~operating or~~ embalming ~~tables~~ process shall be directed to an open fixture which is properly vented and connected to the building drainage system. Where a municipal sewerage system is available, the building drainage system shall be discharged into the municipal sewage system; where such a system is not available, the building drainage system must be discharged into a satisfactory private system of waste disposal. There shall be no connection or other arrangement from any plumbing fixture or device whereby unsafe water or other foreign material may be discharged or drawn into a safe water supply. Every plumbing fixture, receptacle, and water supply tank shall be provided with a proper air gap or other acceptable device to prevent backflow into the water supply. (See appendix to plumbing

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code.)

Subp. ~~4.~~ 3. **Removal of waste.** Refuse, bandages, cotton, and other wastes shall be collected in ~~proper-and-convenient~~ approved receptacles ~~which-shall-be~~ as provided in the ~~operating~~ and embalming and preparation ~~rooms~~ room. All ~~such~~ waste shall be handled in a sanitary manner and destroyed by incineration ~~and-all.~~ Embalming tables, hoppers, sinks, receptacles, instruments, positioning blocks, and other appliances used in the embalming of dead human bodies shall be thoroughly cleaned immediately ~~after-the-preparation-of-the-case is-completed~~ upon completion of preparation and embalming.

4610.2400 DEFINITIONS.

Subpart 1. **Application.** For the purposes of parts 4610.0200 to ~~4610.2700~~ 4610.2800, the words, terms, and phrases listed in this part shall have the meaning stated ~~herein~~, unless the language and context clearly indicates that a different meaning is intended.

Subp. 1a. **Alternative container.** "Alternative container" means a rigid container other than a casket used for burial, cremation, or entombment of a dead human body.

Subp. 2. [See Repealer.]

Subp. 3. **Cash ~~advanced-items~~ advance item.** "Cash advanced ~~items~~ advance item" means ~~items~~ any item of merchandise ~~and services-provided-by-other-than-the-mortician,-funeral-director,-or-funeral-establishment,-the-liability-for-which-is-incurred-by-the-mortician,-funeral-director,-or-funeral-establishment-on-behalf-of-the-funeral-arranger-and-listed-on-the-itemization-form~~ or service described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services, casket bearers, public transportation, clergy honoraria, flowers, musicians or singers, obituary notices, gratuities, and death

? no criteria

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certificates.

Subp. 4. **Casket.** "Casket" means a container commonly used to enclose a dead human body for the purposes of the funeral and final disposition.

Subp. 4a. **Commissioner.** "Commissioner" means commissioner of the Department of Health.

Subp. 4b. **Cremains.** "Cremains" means the ashes of a dead human body.

Subp. 5. **Cremation~~/calcination~~.** "Cremation~~/calcination~~" means the use of direct flames or intense heat to reduce the dead human body to ashes and inorganic bone fragments.

Subp. 6. **Destination.** "Destination" means the city or town of final disposition.

Subp. 6a. **Direct cremation.** "Direct cremation" means a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

Subp. 7. [See Repealer.]

Subp. 8. **Embalming.** "Embalming" means a process of chemically treating the dead human body to reduce the presence and growth of organisms, to retard organic decomposition and to restore an acceptable physical appearance.

Subp. 9. **Funeral service.** "Funeral service" means the rites or ceremonies ~~connected~~ associated with the ~~final~~ disposition of a dead human body with the body present.

Subp. 9a. **Funeral establishment.** "Funeral establishment" has the meaning given the term in Minnesota Statutes, section 149.08.

Subp. 9b. **Funeral goods.** "Funeral goods" means goods that are sold or offered for sale directly to the public for use in connection with funeral services.

Subp. 10. [See Repealer.]

Subp. 10a. **Immediate burial.** "Immediate burial" means a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present.

Subp. 10b. **Memorial service.** "Memorial service" means the rites or ceremonies without the body present.

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Subp. 10c. **Outer burial container.** "Outer burial container" means a container that is designed for placement in the grave into which the casket is placed including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

Subp. 11. Preparation of the body. "Preparation of the body" includes such items of care as ~~the setting of features, restorative procedures, washing, disinfecting, care of hair, shaving, dressing, and casketing~~ washing, disinfecting, shaving, positioning of features, restorative procedures, care of hair, dressing, and casketing.

Subp. 12. Professional services. "Professional services" includes the provision of staff for arrangements, visitations, funeral, memorial service ~~when the body is not present~~, final disposition, counseling, and administrative services such as ~~counseling~~, securing, and preparing necessary documents.

Subp. 12a. **Public transportation.** "Public transportation" means all forms of transportation available to the general public including airlines, buses, and rail.

Subp. 13. Transportation costs. "Transportation costs" includes the vehicle used for the initial transfer of the deceased, funeral coach, funeral sedans, flower car, service/utility car, ~~and the use of common carriers~~ public transportation where needed, and others.

? other what

Subp. 14. Use of facilities. "Use of facilities" means:

A. provision of chapel or room for the funeral or memorial service and/or provision of facilities for parking, ~~counseling~~ arrangement offices, and other administrative purposes; and

B. provision of chapel or room for visitation/reviewal.

4610.2500 ITEMIZATION OF FUNERAL COSTS.

~~Before final agreement is reached between the client and funeral establishment~~ At the time funeral arrangements are made the mortician or funeral director shall give or cause to be

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given to the person(s) making arrangements, a written disclosure with the items and costs listed separately as required by Minnesota Statutes, section 149.09, subdivision 1.

As a minimum the disclosure shall include a statement of charges for casket, outer burial ~~vault~~ container, use of facilities for reviewal, use of facilities for funeral services, specifically itemized transportation costs, specifically itemized funeral ~~service-merchandise~~ goods, embalming, preparation of the body, other professional services, ~~and~~ anticipated cash advances and expenditures, and if applicable, forwarding of remains, receiving of remains, immediate burials, and direct cremations. When cremation is ~~to be~~ the method of final disposition the disclosure shall have printed in conspicuous print: "Minnesota law does not require that remains be placed in a casket before or at the time of cremation."

A copy of the itemized statement ~~(funeral expense contract)~~ of funeral goods and services selected shall be given the person(s) making funeral arrangements. The contract shall be signed by both parties and the funeral establishment shall retain a copy for three years thereafter.

If the charge for any item is not known at the time the contract is entered into, the establishment representative shall give his/her best estimate of the charges and advise the purchaser(s) of the exact charge as soon as the information becomes available.

No funeral establishment shall bill or cause to be billed any item that is referred to as a "cash ~~advanced~~" advance item unless the net amount paid for such item or items by the funeral establishment is the same as is billed to the funeral establishment. The term "net" is not meant to include any discounts that may be allowed for prompt payment by the funeral establishment.

4610.2700 FORM OF AUTHORIZATION TO EMBALM.

The written authorization statement shall be as follows:

Authorization to Embalm

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I authorize _____ and its staff, agents or representative to embalm the body of _____. I am a relative of the deceased and/or am entitled to custody of the deceased. I understand that embalming is not required by Minnesota law except as provided by parts 4610.0800 to 4610.1600.

1) The deceased is to be sent out of state by ~~common carrier or aircraft~~ public transportation,

2) Death is due to communicable disease,

3) More than 18 hours will elapse from time of death to arrival at the destination, or

4) Final disposition of the deceased is longer than 72 hours after death.

_____
name, relationship

_____
name, establishment representative

4610.2800 FEES.

Subpart 1. Generally. Fees for registration, examination, and licenses under parts 4610.0200 to 4610.0600 are in subparts 2 and 3.

Subp. 2. Mortuary science fees. The following fees are mortuary science fees:

A. trainee registration and renewal fee, $25;

B. examination fee, $50;

C. original license fee, $40;

D. license by endorsement, $200;

E. renewal fee, $40; and

F. renewal fee late charge, $10.

Subp. 3. Funeral directors. The following fees are funeral director fees:

A. application fee, $50;

B. renewal fee, $40; and

C. renewal fee late charge, $10.

Subp. 4. Funeral establishments. The following fees are funeral establishment fees:

A. funeral establishment permit fee, $110;

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B. renewal permit fee, $110; and

C. renewal permit late charge, $15.

RENUMBERING INSTRUCTION. Renumber parts 4610.0200 as 4610.0410; 4610.0300 as 4610.0420; and 4610.2100 as 4610.2210.

REPEALER. Minnesota Rules, parts 4610.0500, subpart 4; 4610.0600, subpart 5; 4610.1400; 4610.2300, subpart 1; and 4610.2400, subparts 2, 7, and 10; are repealed.

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OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD824

Agency: Department of Health

Division:

Agency Contact: David Schweitz

Minnesota Rules: Parts 4610.0200; 4610.0300; 4610.0400; 4610.0500; 4610.0600; 4610.0650; 4610.0700; 4610.0800; 4610.0900; 4610.1000; 4610.1100; 4610.1200; 4610.1300; 4610.1500; 4610.1550; 4610.1600; 4610.1700; 4610.1800; 4610.1900; 4610.2000; 4610.2100; 4610.2200; 4610.2300; 4610.2400; 4610.2500; 4610.2700; 4610.2800

Title: Proposed Rules Relating to Health, Morticians, Funeral Directors, Fees, and Licensing

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Susan E. Quayle
Assistant Revisor
Phone: 296-0956

Date: March 5, 1986

incorrect version

AG copy

Department of Health

Adopted Rules Relating to Health, Morticians, Funeral Directors, Fees, and Licensing

Rules as Adopted

4610.0200 RESIDENT TRAINEE IN MORTUARY SCIENCE.

A person shall be permitted to register as a resident trainee after that person has completed 45 credit hours or 30 semester hours, during the first year of academic training as provided in Minnesota Statutes, section 149.03.

All service in mortuary science shall be performed by a resident trainee under the direction of and responsibility of the licensed person under whom the trainee is registered. A trainee shall be registered under only one mortician at any given time.

A licensed mortician shall have only one trainee registered to him or her at any given time.

4610.0300 RESIDENT TRAINEE REGISTRATION.

Resident trainee registration with the commissioner of health shall show the date on which the traineeship began, the name and address of the mortician under whom the trainee is registered, and the name and address of the company, corporation, or firm of which the mortician is the owner, partner, or employee. Discontinuance of training or transfer to some other mortician for service as a trainee shall be immediately reported to the commissioner of health. The trainee shall file with the commissioner of health not less than 25 case reports upon the forms provided by the commissioner, which shall be signed by the mortician under whom the trainee is registered.

The application for the initial or renewal registration shall be accompanied by a registration fee in an amount specified in part 4610.2800. The initial and renewal registration shall be issued for the calendar year for which application is made and shall expire on December 31 of each

year. Renewal applications and fees shall be submitted no later than December 31 of the year preceding the year for which application is made.

Trainee registration shall be permitted for no more than three years; provided that for good cause the Mortuary Science Advisory Council may extend the registration for an additional period not to exceed one year.

4610.0400 MORTICIANS' QUALIFICATIONS.

Subpart 1. **Requirements.** Every person who wishes to qualify to engage in the practice of mortuary science shall comply with the following requirements.

Subp. 2. **License.** An applicant shall apply to the commissioner of health for a license. The application shall contain the full name of the applicant, age, mailing address, and other pertinent identifying information as the commissioner may require.

Subp. 3. **Age and education.** The applicant shall be at least 18 years of age and shall have successfully completed a minimum of 60 semester or 90 quarter credits at an accredited college or university with credit evaluation in course areas as follows: communications, 12 quarter credits to include speech and English; the social sciences, 20 quarter credits to include sociology and psychology; natural science, 20 quarter credits to include general or inorganic chemistry and biology; health education (to include personal or community health) 4 quarter credits; and elective areas, 34 quarter credits. Following this academic work, the applicant shall have completed and have secured a verification of completion of the prescribed course of study from any college of funeral service education accredited by the American Board of Funeral Service Education.

Subp. 4. **Examination.** After these education qualifications in the order specified have been acquired, the applicant shall attain a satisfactory level of achievement in a comprehensive examination, approved by the commissioner of health in subjects related to the practice of mortuary science

as the commissioner may prescribe. If an applicant for a license to practice mortuary science has satisfactorily passed the National Board Examination given by the Conference of Funeral Service Examining Boards of the U.S., Inc., and is so certified to the commissioner by the conference, the commissioner shall, subject to the criteria listed below, accept the results of the National Board Examination and require the applicant to pass an examination on the laws of Minnesota and the rules of the commissioner pertaining to registration of deaths, embalming, transportation, disposition of dead human bodies, and funeral directing. In order to accept the results of the National Board Examination, the commissioner shall first determine that the knowledge and skills assessed by the examination adequately and accurately evaluate the knowledge and skills needed for actual job performance and ensure that the public health is protected. An applicant who fails to attain a satisfactory level of achievement on any examination given by or on behalf of the commissioner may be reexamined.

Subp. 5. **Experience.** After successful completion of required examinations the applicant shall serve at least one year as a trainee in mortuary science under a mortician licensed by the state of Minnesota. During this period the applicant shall be registered as a trainee in mortuary science with the commissioner and shall participate under the supervision of a mortician in embalming at least 25 bodies and in the arrangements and direction of at least 25 funerals.

4610.0500 LICENSE APPLICATION, RENEWAL, AND ENDORSEMENT FEES.

Subpart 1. **Examination fee.** An applicant for examination for a license in mortuary science, shall submit an application to the commissioner on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800.

Subp. 2. **License fee.** When the applicant has successfully completed the examination and all other requirements for original license, the applicant shall submit to the commissioner a license application on a form provided by the commissioner and

a fee in an amount specified in part 4610.2800 payable to the treasurer, state of Minnesota, after which the license shall be issued.

Subp. 3. **License by endorsement.** An applicant for a license in mortuary science by endorsement without examination as to qualifications pursuant to Minnesota Statutes, section 149.03, subdivision 2, shall submit an application on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800. The applicant shall pass an examination on the Minnesota laws and rules relating to mortuary science prior to licensure.

Subp. 4. [See Repealer.]

Subp. 5. **License issuance and renewal.** Initial and renewal mortuary science licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of that year.

Renewals shall be obtained on an annual basis. Application for license renewal, together with the renewal fee in an amount specified in part 4610.2800 shall be submitted to the commissioner on forms provided no later than December 31 of the year preceding the year for which application is made. Failure to submit the renewal application and fee by the date specified above shall result in an increase in the fee in an amount specified in part 4610.2800. If the renewal application and fee are not submitted within 31 days after the expiration date, the license shall automatically lapse.

4610.0600 FUNERAL DIRECTORS.

Subpart 1. **Licensing requirement.** Every person who wishes to qualify to engage in the practice of funeral directing under Minnesota Statutes, chapter 149, shall comply with the following requirements.

The applicant shall submit two affidavits from ordained religious leaders of the applicant's faith substantiating the beliefs and convictions of the applicant's faith which forbids the practice of embalming.

The applicant shall be at least 18 years of age, shall have satisfactorily completed at least two years at an accredited college or university with approximate credit evaluation in course areas as follows: speech and English, 12 quarter credits; the social sciences, 20 quarter credits; natural science, 20 quarter credits; health education (to include personal or community health) 4 quarter credits, and elective areas, 34 quarter credits. Following such academic work applicants shall have completed a course of study and submit the applicant's official transcript from any school of mortuary science accredited by the American Board of Funeral Service Education in order to verify completion of all credits with the exception of embalming.

After the educational qualifications in the order specified have been acquired, the applicant shall have served at least one year as a trainee in funeral directing under a Minnesota licensed mortician. During the period of practical experience or traineeship the applicant shall have been registered as a trainee in funeral directing with the commissioner and shall have participated under supervision in the arranging and direction of at least 25 funerals. The applicant shall attain a satisfactory level of achievement in a comprehensive written examination given by the commissioner in such subjects as anatomy, microbiology, business methods, chemistry, funeral service directing and funeral service management, pathology, Minnesota laws and rules as they apply to mortuary science, and the practice of funeral directing. An applicant who fails to attain a satisfactory level of achievement may be reexamined at the discretion of the commissioner.

Subp. 3. **Application for license.** An applicant for a funeral directors license, by examination, shall submit an application on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800.

Subp. 4. **Renewal.** Initial or renewal funeral director licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of such

year. Renewals shall be obtained on an annual basis. Applications for license renewal, together with the renewal fee in an amount specified in part 4610.2800, shall be submitted no later than December 31 of the year preceding the year for which application is made. Failure to submit the renewal application and fee within 31 days of the date specified above shall result in an automatic lapse.

Subp. 5. [See Repealer.]

4610.0650 FUNERAL ESTABLISHMENT PERMIT.

Applications for an original or renewal permit to operate a funeral establishment must be submitted on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800. Original permits are effective from the day of issuance to the next June 30. Renewal permits must be issued on an annual basis from July 1 to June 30 of the following year. Failure to submit the renewal application and fee by the expiration date results in an increase in the fee in an amount specified in part 4610.2800. If the renewal application and fee are not paid within 31 days after the expiration date, the permit automatically lapses.

4610.0700 COMMUNICABLE DISEASE DEATHS, PRIVATE FUNERALS.

Only morticians shall be permitted to take charge of the remains of persons who have died of any communicable disease. When such body is to be transported, preparation shall be in accordance with part 4610.1000.

When death is due to communicable disease, the funeral shall be private if so directed by the commissioner.

For purposes of this part, a private funeral is a funeral service where contact and viewing of the dead human body may be restricted or limited because of the cause of death to ensure the public's health, safety, and welfare.

4610.0800 TRANSPORTATION OF THE DEAD.

The transportation of dead human bodies is governed by this part. When a dead human body is transported by public

transportation to a destination outside the state, it must be embalmed. Only a person licensed to engage in the practice of mortuary science shall remove a dead human body from the place of death. Following preparation and embalming of the body, either a mortician or a funeral director shall have charge of such body for the purposes of transportation and final disposition.

This part does not apply to nor shall it in any way interfere with the duties of any officer of any public institution, or with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of mortuary science, or to any person engaged in the performance of duties prescribed by law relating to the conditions under which indigent dead human bodies are held subject to anatomical study; duly authorized personnel from a licensed ambulance service in the performance of their duties; the coronor or medical examiner in the performance of the duties of the office as prescribed by Minnesota Statutes, chapter 390; or to the customs or rites of any recognized religion in the burial of their dead.

4610.0900 TRANSPORTATION PERMIT.

A burial-removal-transit permit shall be required for each dead human body transported by automobile, aircraft, rail, bus, or any other conveyance. It shall be issued by the local registrar of the place of death or a subregistrar or, if necessary to avoid delay, by the state registrar.

It shall contain the information required on the permit form as furnished by the commissioner and be properly signed by the local registrar or a subregistrar, the mortician or funeral director, and the person in charge of the conveyance. When the cause of death is a communicable disease the permit shall be signed by the mortician who prepared the body. Where a firm name is used in the signing of the burial-removal-transit permit it shall be supported by the personal signature of a licensed member of the firm.

The burial-removal-transit permit shall be given to the person in charge of the remains, or attached to the transportation container, and in either case delivered with the body at the destination.

4610.1000 TRANSPORTING DEAD OF ANY COMMUNICABLE DISEASE.

Subpart 1. **Communicable diseases.** The removal and transportation of bodies dead of communicable diseases as specified in part 4605.7040 shall be permitted only under the conditions in subparts 2 to 4.

Subp. 2. **Covering body before removal.** Before removal by any of the conveyances authorized by part 4610.1500, other than by public transportation, the body shall be wrapped in a waterproof sheet, properly covered and encased in a secure pouch, and transported on a regulation ambulance cot, or on an aircraft ambulance stretcher. Sanitary precautions in the preparation for removal and in the removal shall be observed for the protection of the public health.

Subp. 3. **Embalming.** In all cases of communicable disease deaths the body shall be embalmed within 18 hours after death. When a body, dead from a communicable disease, is held by a medical institution beyond 18 hours, the body must be embalmed as soon as possible after that time. Embalming shall include both arterial and cavity treatment, all orifices, discharging sinuses, and areas of broken skin closed with absorbent cotton and the body washed with a disinfecting fluid.

Subp. 4. **Public transportation use.** When public transportation is to be used, embalming is mandatory and an acceptable container shall be used.

4610.1100 TRANSPORTING DEAD BY AIRCRAFT.

The transportation of human dead bodies by aircraft shall be permitted under the following conditions.

When the destination is outside the state, a body transported by aircraft shall be first embalmed. It shall be transported on a regulation ambulance cot, or aircraft ambulance stretcher. When transported by public air carrier it shall be

embalmed and enclosed in an acceptable container.

Where a death caused by a disease listed as communicable in part 4605.7040 occurs in a remote and inaccessible locality, the body in an emergency may be brought by aircraft to the nearest point having facilities and there embalmed and prepared, as provided in parts 4610.0700 to 4610.1800, before being transported further by aircraft.

4610.1200 TRANSPORTING DEAD OF NONCOMMUNICABLE DISEASE.

The transportation of human bodies dead of noncommunicable disease shall be permitted under the following conditions:

A. When the destination will be reached within 18 hours after death, the body shall be enclosed in a casket and a tight outside container. When transportation is to be made by automobile or aircraft, the outside container may be omitted, or the casket and outside container may both be omitted, and in such case the body shall be properly covered and encased in a secured pouch or impermeable sheet and transported on an ambulance cot or aircraft ambulance stretcher.

B. When the destination will not be reached within 18 hours after time of death or if held by a medical institution beyond the 18 hours' notice of release from place of death, the body shall be thoroughly embalmed and transported in accordance with the provisions in item A. Final disposition must be accomplished within 72 hours for all unembalmed bodies. Refrigeration is not considered a form of preservation or disinfection and does not alter the 72-hour rule.

4610.1300 TRANSPORTING DISINTERRED BODIES.

No disinterred body dead from any disease or cause shall be transported unless approved, as is required by parts 4610.2400 to 4610.2700, by the health authorities having jurisdiction. A burial-removal-transit permit signed by the local registrar or a subregistrar, as provided in part 4610.0900, is required.

All disinterred remains shall be enclosed in a sound, tight container and not thereafter opened, provided that bodies in a receiving vault when prepared by morticians shall not be

regarded as disinterred bodies unless the health officer so rules.

4610.1500 CONVEYANCES PERMITTED.

In the transportation of any dead body, all conveyances or vehicles shall have ample enclosed area to accommodate an ambulance cot or aircraft ambulance stretcher in a horizontal position and shall be so designed as to permit loading or unloading without excessive tilting of the cot.

4610.1550 REMOVAL OF INFANTS.

Any body measuring less than 36 inches may be transported in a passenger automobile after having been properly covered and encased.

For purposes of this part "passenger automobile" means a motor vehicle designed and used for carrying not more than ten persons, including station wagons, but excluding motorcycles and motor scooters.

4610.1600 MOVING BODIES LOCALLY.

When parts 4610.0800 to 4610.1550 do not apply, embalming is not required if the body is to be buried or cremated within 72 hours after death.

4610.1700 FORBIDDEN COMPOUNDS IN EMBALMING CHEMICALS.

No embalming fluid containing compounds of arsenic, mercury, zinc, or other poisonous metals shall be sold or used in Minnesota for or in the embalming of dead human bodies.

In the transport of the dead in Minnesota when embalming is carried out, the fluid shall be of a quality and used in sufficient quantity to properly embalm the body.

4610.1800 TRANSPORTATION CONTAINER.

Every transportation container shall bear at least four handles and when over five feet six inches in length shall bear six handles.

4610.1900 OPENING OF DISINTERRED CASKETS.

The opening of caskets containing disinterred remains is

forbidden except when ordered by a court of competent jurisdiction.

4610.2000 CREMATED REMAINS.

Cremation of a dead human body shall be considered as a final disposition of that body. No additional permit covering transportation, interment, or other disposition of cremains, or concerning the kind of container in which the cremains are placed for preservation or transportation is required. When cremation is selected as a method of disposition, cremation must be accomplished 72 hours from the time of death on all unembalmed bodies.

When a container or urn for cremains is offered or provided, it shall be of adequate size to enclose the entire cremains. Commingling of cremains shall not be permitted without written permission from next of kin.

4610.2100 SERVING OF FOODSTUFFS IN FUNERAL ESTABLISHMENTS.

In the interest of safeguarding public health, safety, welfare, and sanitation, the serving of food to the public in a funeral establishment is prohibited. For the purpose of this part, beverages served in single use disposable containers shall not be considered food.

4610.2200 PERMIT FOR DISINTERMENT AND REINTERMENT.

No person except a mortician, and then only after first having obtained a permit from the local health officer and the local registrar or a subregistrar, as hereinafter prescribed, shall disinter the body of a deceased person; provided, the authorities in charge of a cemetery may transfer bodies buried therein from one part of the cemetery to another part thereof with the approval and under supervision of the local health officer. Any person desiring a permit shall first secure from the person in charge of the cemetery records a written statement showing that the body is buried in that cemetery and give the name of deceased, age at the time of death, date of death, cause of death, and date of burial. A person shall present this

statement to the proper local health officer and make application for permission to disinter and remove the body.

Provided, if there is no cemetery record then a statement by relatives of the deceased or other competent person or persons who are empowered to cause such disinterment and removal shall be presented. If the health officer has cemetery records of the cemeteries in the municipality of the health officer and a record of interment, no written statement need be secured or filed.

The local health officer shall question the applicant as to the manner in which it is proposed to disinter, handle, and dispose of the remains, and shall give and enforce directions for disinterment, removal, and reinterment as necessary for the protection of the public health. The local health officer shall notify the local registrar or subregistrar orally or in writing that the application has been approved. The applicant shall apply to the registrar or subregistrar, who shall issue in duplicate a written disinterment-reinterment permit, using the burial-removal-transit form provided by the commissioner of health for original interments and noting on the forms the words "disinterment-reinterment permit."

The mortician shall give the sexton or person in charge of any cemetery, burial place, or other premises in which the disinterment is made, a duplicate copy of the disinterment-reinterment form. The sexton or person in charge shall not inter or permit the interment or other disposition of the disinterred body of a deceased person until a disinterment-reinterment permit is received.

4610.2300 SANITARY CONDITION OF FUNERAL ESTABLISHMENTS.

Subpart 1. [See Repealer.]

Subp. 2. **Preparation and embalming room.** All preparation and embalming rooms shall be maintained in a sanitary manner at all times. A properly lighted and ventilated preparation and embalming room shall be provided in every funeral establishment. It shall have a nonporous floor which shall be

kept clean and free of dust, dirt, refuse, and other contaminates. Each room must have a nonporous preparation and embalming table. The floor, walls, and ceiling of the preparation and embalming room and all embalming tables, dressing tables, temporary tables, removal cots, stretchers, and transportation containers shall be kept in a clean and sanitary condition.

The embalming and preparation room shall be provided with a water supply approved by the department of health. Waste from the embalming process shall be directed to an open fixture which is properly vented and connected to the building drainage system. Where a municipal sewerage system is available, the building drainage system shall be discharged into the municipal sewage system; where such a system is not available, the building drainage system must be discharged into a satisfactory private system of waste disposal. There shall be no connection or other arrangement from any plumbing fixture or device whereby unsafe water or other foreign material may be discharged or drawn into a safe water supply. Every plumbing fixture, receptacle, and water supply tank shall be provided with a proper air gap or other acceptable device to prevent backflow into the water supply. (See appendix to plumbing code.)

Subp. 3. **Removal of waste.** Refuse, bandages, cotton, and other wastes shall be collected in approved receptacles as provided in the embalming and preparation room. All waste shall be handled in a sanitary manner and destroyed by incineration. Embalming tables, hoppers, sinks, receptacles, instruments, positioning blocks, and other appliances used in the embalming of dead human bodies shall be thoroughly cleaned immediately upon completion of preparation and embalming.

4610.2400 DEFINITIONS.

Subpart 1. **Application.** For the purposes of parts 4610.0200 to 4610.2800, the words, terms, and phrases listed in this part shall have the meaning stated, unless the language and context clearly indicates that a different meaning is intended.

Subp. 1a. **Alternative container.** "Alternative container" means a rigid container other than a casket used for burial, cremation, or entombment of a dead human body.

Subp. 2. [See Repealer.]

Subp. 3. **Cash advance item.** "Cash advance item" means any item of merchandise or service described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services, casket bearers, public transportation, clergy honoraria, flowers, musicians or singers, obituary notices, gratuities, and death certificates.

Subp. 4. **Casket.** "Casket" means a container commonly used to enclose a dead human body for the purposes of the funeral and final disposition.

Subp. 4a. **Commissioner.** "Commissioner" means commissioner of the Department of Health.

Subp. 4b. **Cremains.** "Cremains" means the ashes of a dead human body.

Subp. 5. **Cremation.** "Cremation" means the use of direct flames or intense heat to reduce the dead human body to ashes and inorganic bone fragments.

Subp. 6. **Destination.** "Destination" means the city or town of final disposition.

Subp. 6a. **Direct cremation.** "Direct cremation" means a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

Subp. 7. [See Repealer.]

Subp. 8. **Embalming.** "Embalming" means a process of chemically treating the dead human body to reduce the presence and growth of organisms, to retard organic decomposition and to restore an acceptable physical appearance.

Subp. 9. **Funeral service.** "Funeral service" means the rites or ceremonies associated with the disposition of a dead

human body with the body present.

Subp. 9a. **Funeral establishment.** "Funeral establishment" has the meaning given the term in Minnesota Statutes, section 149.08.

Subp. 9b. **Funeral goods.** "Funeral goods" means goods that are sold or offered for sale directly to the public for use in connection with funeral services.

Subp. 10. [See Repealer.]

Subp. 10a. **Immediate burial.** "Immediate burial" means a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present.

Subp. 10b. **Memorial service.** "Memorial service" means the rites or ceremonies without the body present.

Subp. 10c. **Outer burial container.** "Outer burial container" means a container that is designed for placement in the grave into which the casket is placed including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

Subp. 11. **Preparation of the body.** "Preparation of the body" includes such items of care as washing, disinfecting, shaving, positioning of features, restorative procedures, care of hair, dressing, and casketing.

Subp. 12. **Professional services.** "Professional services" includes the provision of staff for arrangements, visitations, funeral, memorial service, final disposition, counseling, and administrative services such as securing and preparing necessary documents.

Subp. 12a. **Public transportation.** "Public transportation" means all forms of transportation available to the general public including airlines, buses, and rail.

Subp. 13. **Transportation costs.** "Transportation costs" includes the vehicle used for the initial transfer of the deceased, funeral coach, funeral sedans, flower car, service/utility car, use of public transportation where needed, and others.

Subp. 14. **Use of facilities.** "Use of facilities" means:

A. provision of chapel or room for the funeral or memorial service and/or provision of facilities for parking, arrangement offices, and other administrative purposes; and

B. provision of chapel or room for visitation/reviewal.

4610.2500 ITEMIZATION OF FUNERAL COSTS.

At the time funeral arrangements are made the mortician or funeral director shall give or cause to be given to the person(s) making arrangements, a written disclosure with the items and costs listed separately as required by Minnesota Statutes, section 149.09, subdivision 1.

As a minimum the disclosure shall include a statement of charges for casket, outer burial container, use of facilities for reviewal, use of facilities for funeral services, specifically itemized transportation costs, specifically itemized funeral goods, embalming, preparation of the body, other professional services, anticipated cash advances and expenditures, and if applicable, forwarding of remains, receiving of remains, immediate burials, and direct cremations. When cremation is the method of final disposition the disclosure shall have printed in conspicuous print: "Minnesota law does not require that remains be placed in a casket before or at the time of cremation."

A copy of the itemized statement of funeral goods and services selected shall be given the person(s) making funeral arrangements. The contract shall be signed by both parties and the funeral establishment shall retain a copy for three years thereafter.

If the charge for any item is not known at the time the contract is entered into, the establishment representative shall give his/her best estimate of the charges and advise the purchaser(s) of the exact charge as soon as the information becomes available.

No funeral establishment shall bill or cause to be billed any item that is referred to as acash advance item unless the

net amount paid for such item or items by the funeral establishment is the same as is billed to the funeral establishment. The term "net" is not meant to include any discounts that may be allowed for prompt payment by the funeral establishment.

4610.2700 FORM OF AUTHORIZATION TO EMBALM.

The written authorization statement shall be as follows:

Authorization to Embalm

I authorize _____ and its staff, agents or representative to embalm the body of _____. I am a relative of the deceased and/or am entitled to custody of the deceased. I understand that embalming is required by Minnesota law as provided by parts 4610.0800 to 4610.1600.

1) The deceased is to be sent out of state by public transportation,

2) Death is due to communicable disease,

3) More than 18 hours will elapse from time of death to arrival at the destination, or

4) Final disposition of the deceased is longer than 72 hours after death.

_____
name, relationship

_____
name, establishment representative

4610.2800 FEES.

Subpart 1. **Generally.** Fees for registration, examination, and licenses under parts 4610.0200 to 4610.0600 are in subparts 2 and 3.

Subp. 2. **Mortuary science fees.** The following fees are mortuary science fees:

A. trainee registration and renewal fee, $25;

B. examination fee, $50;

C. original license fee, $40;

D. license by endorsement, $200;

E. renewal fee, $40; and

F. renewal fee late charge, $10.

Subp. 3. **Funeral directors.** The following fees are funeral director fees:

A. application fee, $50;

B. renewal fee, $40; and

C. renewal fee late charge, $10.

Subp. 4. **Funeral establishments.** The following fees are funeral establishment fees:

A. funeral establishment permit fee, $110;

B. renewal permit fee, $110; and

C. renewal permit late charge, $15.

RENUMBERING INSTRUCTION. Renumber parts 4610.0200 as 4610.0410; 4610.0300 as 4610.0420; and 4610.2100 as 4610.2210.

REPEALER. Minnesota Rules, parts 4610.0500, subpart 4; 4610.0600, subpart 5; 4610.1400; 4610.2300, subpart 1; and 4610.2400, subparts 2, 7, and 10; are repealed.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Amendments to Chapter 4610 Department of Health Rules Pertaining to Morticians, Funeral Directors, and the Disposition of the Dead

SUPPLEMENTAL FINDINGS AND ORDER ADOPTING RULES

WHEREAS, the above subject amendments were adopted pursuant to an Order of the undersigned, dated April 25, 1986; and

WHEREAS, in accordance with Minn. Stat. § 14.26 (Supp. 1985) and Minn. Rules pt. 2000.0400, said amendments were thereafter submitted to the Attorney General for review; and

WHEREAS, the Attorney General has suggested the following changes in the amendments:

4610.2400

. . . .

subp. 13. Transportation costs. "Transportation costs" includes the vehicle used for the initial transfer of the deceased, funeral coach, funeral sedans, flower car, service/utility car, and the use of public transportation where needed~~, and others~~.

WHEREAS, the undersigned finds that the suggested changes would provide appropriate notice and eliminate any ambiguity in the cited subparts of the rules.

NOW, THEREFORE, IT IS ORDERED that the above rule amendment changes are adopted this 9 day of May, 1986, pursuant to authority vested in me by Minn. Stat. SS 144.12(3), 144.122, and 149.05, subds. 2 and 4 (1984).

Dated: May 9, 1986

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

Sr Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
Commissioner of Health

(9)

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Amendments to Chapter 4610 Department of Health Rules Pertaining to Morticians, Funeral Directors, and the Disposition of the Dead

ORDER ADOPTING RULES

Notice of the Department of Health's intent to adopt the above-entitled rules changes without a public hearing was published in the State Register on March 24, 1986, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minn. Stat. § 14.14, subd. 1.a (1984) on March 20, 1986. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five (25) written requests for a public hearing within the 30-day comment period, reviewing and considering the comments and determining the need for and reasonableness of the above-captioned rules changes,

NOW, THEREFORE, IT IS ORDERED that these rules changes identified as Minn. Rules pt. 4610.0200 to 4610.2800 are adopted this 25 day of April, 1986, pursuant to authority vested in me by Minn. Stat. §§ 16A.128, subd. 2.a (Supp. 1985), 144.12(3), 144.122, and 149.05, subds. 2 and 4 (1984).

Dated: April 25, 1986

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

for Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
Commissioner of Health

are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to eleven (11) percent per annum.

For further information, contact:

Peter Sausen, Assistant Commissioner
Cash and Debt Management
State of Minnesota
Department of Finance
(612) 296-8372

Department of Health

Outside Opinion Sought Regarding Rules Governing the Practice of Mortuary Science

Notice is hereby given that the Department of Health is seeking information or opinions from sources outside the agency in preparing to amend existing rules and adopt new rules relating to the licensing and regulation of morticians and funeral directors and to the disposition of the dead. Promulgation of the rules is authorized by Minnesota Statutes, sections 144.12(3), 144.122, and 149.05, subdivisions 2 and 4.

Outside opinion is also being solicited as to how any new or amended rules would affect small businesses as defined by Minnesota Statutes, section 14.115, subdivision 1.

The Department of Health requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

David F. Schwietz
Supervisor
Mortuary Science Unit
Minnesota Department of Health Building
Room 353
717 Delaware Street Southeast
Minneapolis, Minnesota 55414

Oral statements will be received during regular business hours over the telephone at (612) 623-5513 and in person at the above address.

All statements of information and comment shall be accepted until March 1, 1986. Any written material received by the Department of Health by that date shall become part of the record in the event the rules are promulgated.

January 6, 1986

David F. Schwietz

Department of Labor and Industry

Correction to Prevailing Wage Rates

The highway/heavy prevailing wage rates effective October 1, 1985 in Faribault County for the following classes of labor were certified in error: Flagperson (104), Bituminous spreader and finishing operator (204), Front end loader operator (214) and Roller operator, over 6 tons for bituminous finishing and/or wearing courses (228). Also certified in error was Bituminous spreader and bituminous finishing machine operator-helper (205) in Freeborn County.

The correct rates, effective January 31, 1986, may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155.

Steve Keefe, Commissioner
Department of Labor & Industry

DEPARTMENT OF HEALTH

Outside Opinion Sought Regarding Rules Governing The Practice of Mortuary Science

Notice is hereby given that the Department of Health is seeking information or opinions from sources outside the agency in preparing to amend existing rules and adopt new rules relating to the licensing and regulation of morticians and funeral directors and to the disposition of the dead. Promulgation of the rules is authorized by Minnesota Statutes, sections 144.12(3), 144.122, and 149.05, subdivisions 2 and 4.

Outside opinion is also being solicited as to how any new or amended rules would affect small businesses as defined by Minnesota Statutes, section 14.115, subdivision 1.

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David F. Schwietz
Supervisor
Mortuary Science Unit
Minnesota Department of Health Building
Room 353
717 Delaware Street Southeast
Minneapolis, Minnesota 55414

Oral statements will be received during regular business hours over the telephone at (612) 623-5513 and in person at the above address.

All statements of information and comment shall be accepted until March 1, 1986. Any written material received by the Department of Health by that date shall become part of the record in the event the rules are promulgated.

Dated: January ____, 1986



DAVID F. SCHWIETZ

(2)

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Amendments to Chapter 4610 Department of Health Rules Pertaining to Morticians, Funeral Directors, and the Disposition of the Dead

ORDER FOR NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

IT IS ORDERED this 7th day of March, 1986, that a Notice of Intent to Amend Rules Without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Department of Health for that purpose and be published in the State Register.

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

Sr. Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
Commissioner of Health

(6)

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH

In the Matter of Amendments to Chapter 4610 Department of Health Rules Pertaining to Morticians, Funeral Directors, and the Disposition of the Dead

NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Commissioner of Health (hereinafter "Commissioner") proposes to adopt amendments to Minnesota Rules, chapter 4610, which relates to mortuary science and the disposition of the dead.

A copy of the proposed amendments is attached to this Notice. One additional free copy is available upon request from David F. Schwietz at the address shown below.

The Commissioner has determined that the proposed amendments will be noncontroversial in nature and has elected to follow the provisions of Minnesota Statutes, sections 14.22 to 14.28 (1984). Sections 14.21 to 14.28 provide for an expedited process for the adoption of administrative rule changes without the holding of a public hearing.

The implementation of these amendments will not require the expenditure of public money by local bodies of greater than $100,000.00 in either of the two years following their adoption, nor do the amendments have any impact on agricultural land. The small business considerations in rulemaking are not believed to apply to these amendments pursuant to Minnesota Statutes, section 14.115. Nevertheless, in accordance with section 14.115, subdivision 4(b), notice of this proceeding has been given to the Minnesota Funeral Directors Association for publication in their Bulletin. This Association has a membership of 95% of the state's licensed funeral establishments.

THE PUBLIC IS HEREBY ADVISED that:

1. They have 30 days in which to submit comment in support of or in opposition to the proposed amendments, and comment is encouraged;

2. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed;

3. If twenty-five or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held pursuant to Minnesota Statutes, sections 14.13 to 14.20;

4. All comments and any written requests for a public hearing shall be submitted to David F. Schwietz, Supervisor, Mortuary Science Unit, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440;

5. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed;

6. The proposed amendments may be modified if modifications are supported by the data and views submitted and do not result in a substantial change in the proposed language;

7. Under this expedited procedure, if a hearing is not required the department must submit any action on its rules to the attorney general for review of the form and legality of the rule change. Notice of the date of submission of the proposed amendments to the attorney general for review will be mailed to any person who requests to receive the notice. Requests to receive notice must be submitted to David Schwietz at the above address;

8. Authority to amend Minnesota Rules chapter 4610 is contained in Minnesota Statutes, sections 16A.128, subd. 2a (Supp. 1985), 144.12(3), 144.122, and 149.05, subds. 2 and 4 (1984). Additionally a Statement of Need and Reasonableness

that describes the need for and reasonableness of each provision of the proposed amendment has been prepared and is now available. Anyone wishing to receive a copy of this document may contact David Schwietz at the above address;

9. If twenty-five or more persons request a public hearing on this matter, notice of any such hearing will be published in the State Register;

10. Any amendment made pursuant to this proceeding shall be effective five working days after publication in the State Register of notice of the adoption of the amendment.

Dated: March 7, 1986

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

Sr. Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
Commissioner of Health

(7)

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of Amendments to Chapter 4610 Department of Health Rules Pertaining to Morticians, Funeral Directors, and the Disposition of the Dead

AFFIDAVIT OF MAILING

Verna M. Nelson, being first duly sworn, deposes and says:

That on the 20th day of March, 1986, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice Of Intent To Amend Rules Without A Public Hearing, together with the proposed amendments, by depositing in the United States mail at said City of Minneapolis one copy each thereof, properly enveloped, with postage prepaid, to all persons and associations who have requested that their names be placed on file with the Minnesota Department of Health for the purpose of receiving notice of the proposed adoption of rules by the Minnesota Department of Health.

Verna M. Nelson

Subscribed and sworn to before me
this 24 day of April, 1986

Louise Kaniuk

LOUISE KANIUK
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSON EXPIRES FEBRUARY 22, 1991

3

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Amendments to Chapter 4610 Department of Health Rules Pertaining to Morticians, Funeral Directors, and the Disposition of the Dead

CERTIFICATE OF AGENCY'S MAILING LIST

I, Dee Woodard, secretary to the Commissioner of Health, hereby certify that I am responsible for maintaining the list of all persons who register with the Department of Health for the purpose of receiving notice of rule hearings on proposed rules and amendments thereto on the subject captioned above pursuant to Minn. § 15.0412, subd. 4, and further certify that the list attached and made a part hereof constitutes the complete list of the persons, associations, and other interested groups who as of 1:00 p.m. this 20 day of March, 1986, have so registered with the Department.

COMMISSIONER OF HEALTH
SISTER MARY MADONNA ASHTON

By Dee Woodard

Michael J. Ahern
Moss and Barnett
1200 Pillsbury Center
Minneapolis, MN 55402

Alpha Homes, Inc.
P.O. Box 487
Spicer, MN 56288

Donna M. Anderson
Dakota County Community Health Services
Human Services Building
1600 Highway 55
Hastings, MN 55033

Herbert Anderson
418 Eighth Street South
Virginia, MN 55792

James F. Andre, City Manager
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

Anoka County Health Department
c/o Robert M. Hutchison
Courthouse - Fourth Floor
Anoka, MN 55303

Joan M. Archer
MN Manufactured Housing Association
222 East Little Canada Road
Suite 222
St. Paul, MN 55117

Allyson Ashley
Southwestern Mental Health Center
P.O. Box D
Luverne, MN 56156

Assisi Residences of Faribault County, Inc.
218 South Linton
Blue Earth, MN 56013

Association for Retarded Citizens of Olmsted County
903 West Center
Rochester, MN 55902

Walter A. Baldus
Woodvale Management Services, Inc.
P.O. Box 1047
Austin, MN 55912

Bergerson - Caswell, Inc.
5115 Industrial Street
Maple Plain, MN 55359

Les Block
Public Health Administration
School of Public Health - U of M
Box 197, Mayo
Minneapolis, MN 55455

Nancy Briggs
New Connection Programs
73 Leech Street
St. Paul, MN 55102

Broeker and Grant
2850 Metro Drive - Suite 800
Minneapolis, MN 55420

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Koppers Company, Inc.
1201 Koppers Building
Pittsburgh, PA 15219

Patricia A. Butcher, Administrator
Northeast Residence, Inc.
4680 Bald Eagle Avenue
White Bear Lake, MN 55110

William R. Carter, III
POST Board
333 Sibley Street, Suite 495
St. Paul, MN 55101

Thomas F. Catania, Jr.
Second Floor Ford Building
117 University Avenue
St. Paul, MN 55117

Becky A. Comstock, Esq.
Dorsey and Whitney
2200 First Bank Place East
Minneapolis, MN 55402

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Mental Health Association of MN
328 East Hennepin Avenue
Minneapolis, MN 55414

Milton Conrath
Wekton, Inc.
633 North Snelling
St. Paul, MN 55104

Kathleen Cota, RN, JD
Minnesota Nurses Association
1821 University Avenue
St. Paul, MN 55104

Crippled Children's School, Inc.
Irene Holmquist
Box 23
Worthington, MN 56187

Jan Cuccia
SEIU Local 113
3001 University Avenue Southeast
Minneapolis, MN 55414

Patricia Cullen/Greenbrier Home
941 Birmingham
St. Paul, MN 55106

Nancy Dagg
Anoka County Community Health
and Social Service Department
Anoka County Courthouse - Fourth Floor
Anoka, MN 55303

Dakota County Mental Health Center, Inc.
744 - 19th Avenue North
South St. Paul, MN 55075

Jean Dawson
Minnesota Government Report
Room B-28, Press Room, State Capitol
St. Paul, MN 55155

Donald A. Dee
MN State Pharmaceutical Association
2221 University Avenue Southeast, #326
Minneapolis, MN 55414

Janice M. Devens
Wright County Human Services
Courthouse
Buffalo, MN 55313

Judith S. Douglas
The Phoenix Residence, Inc.
135 Colorado Street East
St. Paul, MN 55107

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LeFeverre, Lefler, Kennedy,
O'Brien and Drawz
2000 First Bank Place West
120 South Sixth Street
Minneapolis, MN 55402

Paul Farseth
Minnesota Medicaid
Box 64170
St. Paul, MN 55164

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Pine Ridge Homes, Inc.
915 - 18th Street
Cloquet, MN 55720

Bob Fitzgerald, D.C.
133 West Lake Street
Minneapolis, MN 55408

Friendship Haven, Inc.
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Sherburn, MN 56171

Miller A. Friesen
Range Mental Health Center
P.O. Box 1188
Virginia, MN 55792

Peter X. Fugina
MN Senior Federation
301 Fuller Avenue
St. Paul, MN 55103

Kathy Gaalswyk, Executive Director
Region 5 Regional Development Commiss
611 Iowa Avenue
Staples, MN 56479

Jan Gervais
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Minneapolis, MN 55408

Ric M. Giese
Pharmacy Department
Box 611 Mayo
420 Delaware Street Southeast
Minneapolis, MN 55455

James Glasoe, Executive Director
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4741 Zealand Avenue North
New Hope, MN 55428

Jerry Gross
Community Living, Inc.
Box 130
Victoria, Mn 55386

Eileen L. Harris, Administrator
Outreach Group Homes, Inc.
Suite 304
3601 Park Center Boulevard
St. Louis Park, MN 55416

J. William Haun, P.E.
Suite 343, 13911 Ridgedale Drive
Minnetonka, MN 55343

Robert L. Haven
Twin Town Treatment Center
1706 University Avenue
St. Paul, MN 55104

Tom Heenan, Supervising Sanitarian
Crystal Health Department
4141 Douglas Drive
Crystal, MN 55422

Beverly Helgeson
Presbyterian Family Foundation
901 Memorial Parkway
Willmar, MN 56201

Harold Hietala
St. Louis County Health Department
910 South 8½ Street
Virginia, MN 55792

Charles B. Hoffman
Pickands Mather and Company
Suite 811 - 200 West Superior Street
Duluth, MN 55802

Hope Residence, Inc.
Box 63
Waterville, MN 56096

Cathie Hughes, Governmental Affairs
North Memorial Medical Center
3300 Oakdale Avenue North
Robbinsdale, MN 55422

Ingleside Engineering and Construction, Inc.
Brian Van Beusekom
R. 1, Box 175
Rockford, MN 55373

Alan W. Ingram, Executive Director
NASW, Minnesota Chapter
614 Portland
St. Paul, MN 55102

James Jack
Department of Recreation, Parks and Leisure Services
Mankato State University
Mankato, MN 56001

Gaynold Jensen, R.D.
111 West 107th Street
Minneapolis, MN 55420

Richard Jochem, Executive Director
Mental Health Advocates Coalition -- Alliance for the Mentally Ill of MN
265 Fort Road
St. Paul, MN 55102

Sharon Kannenberg
Group Homes of Winona, Inc.
252 West Wabasha Street
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Barbara W. Kaufman, Exec. Di
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Koep Group Homes, Inc.
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627 Oak Street Southeast
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Byron Laher
United Way of Minneapolis
404 South Eighth Street
Minneapolis, MN 55404

Ms. Tobey Lapakko
Minnesota AFL-CIO
175 Aurora Avenue
St. Paul, MN 55103

Carol A. Lee
Harry Meyering Center
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Mankato, MN 56001

Gail Lee
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Minnetonka, MN 55345

Virgil H. Lee, R.Ph.
St. Mary's Hospital -
Pharmacy Services
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Rochester, MN 55902

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Karen Lenander
Northern States Power Company
A. S. King Plant
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Georgianne Lowney
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Waconia, MN 55387

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City of Minneapolis
250 South Fourth Street
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Mary Luth
Washington County Public Health
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7516 - 80th Street South
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Nancy Meyer
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Mankato, MN 56001

Minnesota Dental Association
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St. Paul, MN 55104

Roger Moore
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Minnesota, Inc.
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Louis R. Nelson
620 North Wood Street
Mora, MN 55051

Toni Nesheim
Region 9 Development Commission
P.O. Box 3367
Mankato, MN 56001

New Dawn, Inc.
Box G
Fulda, MN 56131

Phillip C. Newberg
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2700 University Ave. W.
Minneapolis, MN 55114

D. Bill Olson
P.O. Box 123
Windom, MN 56101

Olson Well Service
Donald Olson
Halstad, MN 56548

Mary C. Pattock, Executive Director
Minnesota Chiropractic Association
2353 Rice Street
St. Paul, MN 55113

Gordon R. Peake, Land Manager
Texasgulf Minerals and Metals, Inc.
5932 McIntyre Street
Golden, CO 80403

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426 West Avenue
Red Wing, MN 55066

LeeRoy Peterson
Ebenezer Society
2500 Park Avenue
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Alex Petterson, Executive Director
Community Involvement Programs
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Kathleen Pine
400 West Marie Avenue
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Pine River Group Home
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QSS, Inc.
P.O. Box 838
Faribault, Mn 55021

Range Center, Inc.
1001 N.W. Eighth Avenue
P.O. Box 629
Chisholm, MN 55719

The Residence, Inc.
2499 North Rice #220
Roseville, MN 55113

Paul Riddle
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South Center Manor
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Center City, MN 55012

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Minneapolis, MN 56267

H. A. Swift
5165 North St. Albans
St. Paul, MN 55126

collected as payment for duties performed by it pursuant to the contract in the amount of one percent per annum of the authority's proportional share of the loan.

8300.3070 AMORTIZATION SCHEDULES.

The financial institution shall allow loan payments to be made on other than a monthly basis in order to meet the amortization schedule established by the financial institution. A nonmonthly payment schedule shall allow for seasonal payments, where income is generated, or primarily generated, because of seasonal business.

Department of Health

Proposed Rules Relating to Health, Morticians, Funeral Directors, Fees, and Licensing

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Commissioner of Health (hereinafter "Commissioner") proposes to adopt amendments to Minnesota Rules, chapter 4610, which relates to mortuary science and the disposition of the dead.

A copy of the proposed amendments is attached to this notice. One additional free copy is available upon request from David F. Schwietz at the address shown below.

The Commissioner has determined that the proposed amendments will be noncontroversial in nature and has elected to follow the provisions of Minnesota Statutes, sections 14.22 to 14.28 (1984). Sections 14.21 to 14.28 provide for an expedited process for the adoption of administrative rule changes without the holding of a public hearing.

The implementation of these amendments will not require the expenditure of public money by local bodies of greater than $100,000.00 in either of the two years following their adoption, nor do the amendments have any impact on agricultural land. The small business considerations in rulemaking are not believed to apply to these amendments pursuant to Minnesota Statutes, section 14.115. Nevertheless, in accordance with section 14.115, subdivision 4(b), notice of this proceeding has been given to the Minnesota Funeral Directors Association for publication in their bulletin. This Association has a membership of 95% of the state's licensed funeral establishments.

The public is hereby advised that:

1. They have 30 days in which to submit comment in support of or in opposition to the proposed amendments, and comment is encouraged;

2. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed;

3. If twenty-five or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held pursuant to Minnesota Statutes, sections 14.13 to 14.20;

4. All comments and any written requests for a public hearing shall be submitted to David F. Schwietz, Supervisor, Mortuary Science Unit, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440;

5. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed;

6. The proposed amendments may be modified if modifications are supported by the data and views submitted and do not result in a substantial change in the proposed language;

7. Under this expedited procedure, if a hearing is not required the department must submit any action on its rules to the attorney general for review of the form and legality of the rule change. Notice of the date of submission of the proposed amendments to the attorney general for review will be mailed to any person who requests to receive the notice. Requests to receive notice must be submitted to David Schwietz at the above address;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

8. Authority to amend Minnesota Rules chapter 4610 is contained in Minnesota Statutes, sections 16A.128, subd. 2a (Supp. 1985), 144.12(3), 144.122, and 149.05, subds. 2 and 4 (1984). Additionally a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendment has been prepared and is now available. Anyone wishing to receive a copy of this document may contact David Schwietz at the above address;

9. If twenty-five or more persons request a public hearing on this matter, notice of any such hearing will be published in the *State Register*;

10. Any amendment made pursuant to this proceeding shall be effective five working days after publication in the *State Register* of notice of the adoption of the amendment.

March 7, 1986

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed

4610.0200 RESIDENT TRAINEE IN MORTUARY SCIENCE.

~~No~~ A person shall be permitted to register as a resident trainee ~~until he shall have~~ after that person has completed 45 credit hours or 30 semester hours, during the first year of academic training as provided in Minnesota Statutes, section 149.03.

~~No~~ All service in mortuary science ~~may~~ shall be performed by a resident trainee ~~except~~ under the ~~personal~~ direction of and ~~in the presence~~ responsibility of the licensed person under whom ~~he~~ the trainee is registered ~~or under another licensed mortician in the same establishment~~. A trainee shall be registered under only one mortician at any given time.

~~No one may at one and the same time be registered under more than one mortician~~ A licensed mortician shall have only one trainee registered to him or her at any given time.

4610.0300 RESIDENT TRAINEE REGISTRATION.

Resident trainee registration with the commissioner of health shall show the date on which ~~such~~ the traineeship began, the name and address of the mortician under whom ~~he~~ the trainee is registered, and the name and address of the company, corporation, or firm of which ~~such~~ the mortician is the owner, partner, or employee. Discontinuance of ~~such~~ training or transfer to some other mortician for service as a trainee shall be immediately reported to the commissioner of health. The trainee shall file with the commissioner of health not less than 25 ~~comprehensive~~ case reports upon the forms provided by the commissioner, which shall be signed by the mortician under whom the trainee is registered. ~~If the mortician under whom one is registered is not the owner or manager of the establishment in which such mortician and his trainee are working, then in such case all trainee case reports and all statements concerning the period of training, in addition to being signed by the mortician under whom registered, shall also be approved and signed by the employer of such mortician and trainee.~~

The application for the initial or renewal registration shall be accompanied by a ~~$10~~ registration fee in an amount specified in part 4610.2800. The initial and renewal registration shall be issued for the calendar year for which application is made and shall expire on December 31 of ~~such~~ each year. Renewal applications and fees shall be submitted no later than December 31 of the year preceding the year for which application is made.

~~Effective January 1, 1969, mortuary science~~ Trainee registration shall be permitted for no more than three years; ~~provided, however,~~ that for good cause the ~~Committee of Examiners in~~ Mortuary Science Advisory Council may extend the registration for an additional period not to exceed one year.

4610.0400 MORTICIANS' QUALIFICATIONS.

Subpart 1. **Requirements.** Every person who wishes to qualify ~~as competent~~ to engage in the practice of mortuary science shall comply with the following requirements.

Subp. 2. **License.** An applicant shall apply to the ~~Minnesota~~ commissioner of health for a license. The application shall contain the full name of the applicant, age, mailing address, and ~~such~~ other pertinent identifying information as the commissioner may require.

Subp. 3. **Age and education.** The applicant shall be at least 18 years of age and shall have successfully completed a minimum of 60 semester or 90 quarter credits at an accredited college or university with credit evaluation in course areas as follows: communications, ~~15~~ 12 quarter credits to include speech and English~~,~~; the social sciences, ~~18~~ 20 quarter credits to include sociology and psychology; natural science, ~~21~~ 20 quarter credits to include general or inorganic chemistry and biology ~~or zoology~~; health education (to include personal or community health) 4 quarter credits; and elective areas, ~~36~~ 34 quarter credits. Following this academic work, the applicant shall have completed and have secured a verification of completion of the prescribed course of study from any college of ~~mortuary science~~ funeral service education accredited by the ~~Conference of Funeral Service Examining Boards of U.S., Inc. or the~~ American Board of Funeral Service Education.

Subp. 4. ~~Written~~ **Examination.** After these education qualifications in the order specified have been acquired, the applicant shall attain a satisfactory level of achievement in a comprehensive examination, approved by the commissioner of health in ~~such~~ subjects related to the practice of mortuary science as the commissioner may prescribe. If an applicant for a license to practice mortuary science has satisfactorily passed the National Board Examination given by the Conference of Funeral Service Examining Boards of the U.S., Inc., and is so certified to the commissioner by the conference, ~~effective January 1, 1976,~~ the commissioner shall, subject to the criteria listed below, accept the results of the National Board Examination and require the applicant to ~~successfully~~ pass an examination on the laws of ~~the state of~~ Minnesota and the rules of the commissioner pertaining to registration of deaths, embalming, transportation, disposition of dead human bodies, and funeral directing. In order to accept the results of ~~such~~ the National Board Examination, the commissioner shall first determine that the knowledge and skills assessed by the examination adequately and accurately evaluate the knowledge and skills needed for actual job performance and ensure that the public health is ~~adequately served and~~ protected. An applicant who fails to attain a satisfactory level of achievement on any examination given by or on behalf of the commissioner may be reexamined ~~on application at the next examination~~.

Subp. 5. **Experience.** After successful completion of required examinations the applicant shall serve at least one year as a trainee in mortuary science under a mortician licensed by the state of Minnesota. During ~~such~~ this period ~~of experience~~ the applicant shall be registered as a trainee in mortuary science with the commissioner and shall ~~assist~~ participate under the supervision of a mortician in embalming at least 25 bodies and in the arrangements and direction of at least 25 funerals.

4610.0500 LICENSE APPLICATION, RENEWAL, AND ENDORSEMENT FEES.

Subpart 1. **Examination fee.** An applicant for examination for a license in mortuary science, shall submit an application ~~therefor~~ to the commissioner on forms provided by the commissioner ~~of health~~ together with a fee ~~of~~ ~~$25~~ in an amount specified in part 4610.2800.

Subp. 2. **License fee.** When the applicant has successfully completed the examination and all other requirements for original license, the applicant shall submit to the commissioner a license application on a form ~~prescribed~~ provided by the commissioner and a fee ~~of~~ ~~$25~~ in an amount specified in part 4610.2800 payable to, the treasurer, state of Minnesota, after which the license shall be ~~duly~~ issued.

Subp. 3. **License by endorsement.** An applicant for a license in mortuary science by endorsement without examination as to ~~technical qualification~~ qualifications pursuant to Minnesota Statutes, section 149.03, subdivision 2, shall submit an application ~~therefor~~ on forms provided by the commissioner ~~of health~~ together with a fee ~~of~~ ~~$75~~ in an amount specified in part 4610.2800. The applicant shall ~~prior to licensure~~ pass an examination on the Minnesota laws and rules relating to mortuary science ~~only~~ prior to licensure.

Subp. 4. [See Repealer.]

Subp. 5. **License issuance and renewal.** Initial and renewal mortuary science licenses ~~or courtesy cards~~ shall be issued for the calendar year for which application is made and shall expire on December 31 of that year.

Renewals ~~thereof~~ shall be obtained on an annual basis. Application for license ~~or courtesy card~~ renewal, together with the renewal fee ~~of~~ ~~$25~~ in an amount specified in part 4610.2800 shall be submitted to the commissioner ~~of health~~ on forms provided no later than December 31 of the year preceding the year for which application is made. Failure to submit the renewal application and fee by the date specified above shall result in an increase in the fee ~~to~~ ~~$35~~ in an amount specified in part 4610.2800. If the renewal application and fee are not submitted within 31 days after the expiration date, the license ~~or courtesy card~~ shall automatically lapse. ~~Such persons shall be required to apply for a new license and meet all the requirements therefor.~~

4610.0600 FUNERAL DIRECTORS.

Subpart 1. **Licensing requirement.** Every person who wishes to qualify ~~as competent~~ to engage in the practice of funeral directing, under ~~Laws of~~ Minnesota ~~1959, chapter 395~~ Statutes, chapter 149, shall comply with the following requirements.

~~Subp. 2. **Application content and affidavit.** He shall make application to the Minnesota commissioner of health for a license. Such application shall contain the name of the applicant in full, age, and place of residence. It shall be accompanied by affidavits from at least two reputable residents of the county in which the applicant resides certifying that the applicant is of good moral character.~~ The applicant shall ~~also~~ submit two affidavits from ordained religious leaders of ~~his~~ the applicant's faith substantiating the beliefs and convictions of the applicant's faith which forbids the practice of embalming.

The applicant shall be at least ~~21~~ 18 years of age, shall have satisfactorily completed at least two years at an accredited college

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or university with approximate credit evaluation in course areas as follows: speech and English, ~~15~~ 12 quarter credits; the social sciences, ~~16~~ 20 quarter credits; natural science, ~~27~~ 20 quarter credits; health education (to include personal or community health) 4 quarter credits, and elective areas, ~~32~~ 34 quarter credits. Following such academic work applicants shall have completed a course of study ~~at the Department of Mortuary Science at the University of Minnesota or~~ and submit the applicant's official transcript from any school of mortuary science accredited by the American Board of Funeral Service Education in order to verify completion of all credits with the exception of embalming.

~~Such courses to include a minimum of 21 quarter credits in mortuary management, 29 quarter credits in the mortuary arts and sciences exclusive of any courses in embalming theory and practice.~~

After the educational qualifications in the order ~~herein~~ specified have been acquired, the applicant shall have served at least one year as a trainee in funeral directing under a Minnesota licensed mortician. During the period of practical experience or traineeship the applicant shall have been registered as a trainee in funeral directing with the commissioner ~~of health~~ and shall have ~~assisted~~ participated under supervision in the arranging and direction of at least 25 funerals. The applicant shall attain a satisfactory level of achievement in a comprehensive written examination given by the commissioner ~~of health~~ in such subjects as anatomy, ~~bacteriology~~ microbiology, business methods, chemistry, ~~mortuary~~ funeral service directing and funeral service management, pathology, ~~public health~~ Minnesota laws and ~~regulations~~ rules as they apply to mortuary science, and the practice of funeral directing. ~~At the discretion of the commissioner, a practical examination in funeral directing may also be required.~~ An applicant who fails to attain a satisfactory level of achievement may be reexamined ~~on application at the next annual examination~~ at the discretion of the commissioner.

Subp. 3. **Application for license.** An applicant for a funeral directors license, by examination, shall submit an application ~~therefor~~ on forms provided by the commissioner ~~of health~~ together with a fee ~~of $25~~ in an amount specified in part 4610.2800.

Subp. 4. **Renewal.** Initial or renewal funeral director licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Renewals ~~thereof~~ shall be obtained on an annual basis. Applications for license renewal, together with the renewal fee ~~of $25~~ in an amount specified in part 4610.2800, shall be submitted no later than December 31 of the year preceding the year for which application is made. Failure to ~~so~~ submit the renewal application and fee within 31 days of the date specified above shall result in an automatic lapse ~~in the license which shall not thereafter be reinstated~~.

Subp. 5. [See Repealer.]

4610.0650 FUNERAL ESTABLISHMENT PERMIT.

Applications for an original or renewal permit to operate a funeral establishment must be submitted on forms provided by the commissioner together with a fee in an amount specified in part 4610.2800. Original permits are effective from the day of issuance to the next June 30. Renewal permits must be issued on an annual basis from July 1 to June 30 of the following year. Failure to submit the renewal application and fee by the expiration date results in an increase in the fee in an amount specified in part 4610.2800. If the renewal application and fee are not paid within 31 days after the expiration date, the permit automatically lapses.

4610.0700 COMMUNICABLE DISEASE DEATHS, PRIVATE FUNERALS.

Only morticians shall be permitted to take charge of the remains of persons who have died of any communicable disease. When such body is to be ~~shipped~~ transported, preparation shall be in accordance with part 4610.1000.

When death is due to communicable disease, the funeral shall be ~~strictly~~ private ~~when the death has been due to diphtheria or smallpox. In the case of a smallpox death the casket shall be hermetically or permanently sealed~~ if so directed by the commissioner.

~~A private funeral allows only the presence of those individuals who have been in immediate contact with the deceased within 21 days before the death occurred, the morticians, and a minister who shall be present only when the morticians in charge of the funeral are also present and who shall be directed by the morticians as to the precautions to be taken. If individuals who have been in such immediate contact with the deceased are not to be present at the funeral a private funeral need not be held. Attendance at interment is limited to those enumerated herein.~~

For purposes of this part, a private funeral is a funeral service where contact and viewing of the dead human body may be restricted or limited because of the cause of death to ensure the public's health, safety, and welfare.

4610.0800 ~~REGULATIONS GOVERNING~~ TRANSPORTATION OF THE DEAD.

~~When a dead human body is transported by common carrier to a destination outside the state, it shall be embalmed and transported in accordance with the transportation regulations of the commissioner of health. The transportation of dead human bodies shall be governed by the transportation regulations adopted by the Minnesota commissioner of health.~~ The transportation of dead human bodies is governed by this part. When a dead human body is transported by public transportation to a destination outside the state, it must be embalmed. Only a ~~mortician~~ person licensed to engage in the practice of mortuary science shall ~~call for and embalm the body of a person whose death is caused by a disease listed as communicable in part 4610.1000~~ remove a dead human body from the place

of death. Following preparation ~~of the body by embalming~~ and embalming of the body, either a mortician or a funeral director shall have charge of such body for the purposes of transportation and final disposition.

This part does not apply to nor shall it in any way interfere with the duties of any officer of any public institution, or with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of mortuary science, or to any person engaged in the performance of duties prescribed by law relating to the conditions under which indigent dead human bodies are held subject to anatomical study; duly authorized personnel from a licensed ambulance service in the performance of their duties; the coronor or medical examiner in the performance of the duties of the office as prescribed by Minnesota Statutes, chapter 390; or to the customs or rites of any recognized religion in the burial of their dead.

4610.0900 TRANSPORTATION PERMIT.

A burial-removal-transit permit shall be required for each dead human body transported ~~by common carrier, and in all cases when transported~~ by automobile, aircraft, rail, bus, or any other conveyance ~~in lieu of common carrier~~. It shall be issued by the local registrar of the place of death or a subregistrar or, if necessary to avoid delay, by the state registrar.

It shall contain the information required on the permit form as furnished by the commissioner ~~of health~~ and be properly signed by the local registrar or a subregistrar, the mortician or funeral director, and the person in charge of the conveyance. When the cause of death is a communicable disease the permit shall be signed by the mortician who prepared the body. Where a firm name is used in the signing of the burial-removal-transit permit it shall be supported by the personal signature of a licensed member of the firm.

The burial-removal-transit permit ~~may~~ shall be given to the person in charge of the remains, or attached to the ~~shipping~~ transportation container, and in either case delivered with the body at the destination ~~to the sexton or other person in charge of the cemetery, or to the health officer in cities that have local ordinances requiring burial permits by him in all cases~~.

~~Officials, agents, and employees of all public transportation facilities throughout the state of Minnesota shall not receive for transportation a dead human body unless the body is accompanied by a burial-removal-transit permit properly completed and signed.~~

4610.1000 TRANSPORTING DEAD OF ANY COMMUNICABLE DISEASE.

Subpart 1. **Communicable diseases.** The removal and transportation of bodies dead of ~~the following~~ communicable diseases as specified in part 4605.7040 shall be permitted only under the conditions in subparts 2 to ~~4~~.

~~Actinomycosis~~
~~Anthrax~~
~~Botulism~~
~~Brucellosis (Undulant Fever)~~
~~Chickenpox (over 16 years of age)~~
~~Cholera, Asiatic~~
~~Conjunctivitis, Epidemic~~
~~Gonorrhea~~
~~Hepatitis, Infectious~~
~~Hepatitis, Serum~~
~~Mononucleosis, Infectious~~
~~Ophthalmia Neonatorum~~
~~Paratyphoid Fever~~
~~Plague~~
~~Pneumonia~~
~~Poliomyelitis~~
~~Psittacosis~~
~~Rabies~~
~~Rheumatic Fever~~
~~Ringworm of the Scalp~~
~~Rocky Mountain Spotted Fever~~
~~Smallpox~~
~~Streptococcal Diseases, including Scarlet Fever and Epidemic Sore Throat~~
~~Diarrhea, Epidemic~~
~~Diphtheria~~
~~Dysentery~~
~~(a) Amebic~~
~~(b) Bacillary~~
~~Encephalitis (all types)~~
~~Glanders~~
~~Syphilis~~
~~Trachoma~~
~~Trichinosis~~
~~Influenza~~
~~Leprosy~~
~~Leptospirosis~~
~~Malaria~~
~~Measles~~
~~Meningitis (all types)~~
~~Tuberculosis~~
~~Tularemia~~
~~Typhoid Fever~~
~~Typhus Fever~~
~~Whooping Cough (Pertussis)~~
~~Yellow Fever~~

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Subp. 2. **Covering body before removal.** Before removal by any of the conveyances authorized by part 4610.1500, other than by ~~common carrier~~ public transportation, the body shall be ~~properly covered and encased in a zipper pouch, bag, or~~ wrapped in a waterproof sheet, properly covered and encased in a secure pouch, and transported ~~in a standard mortuary basket,~~ on a regulation ambulance cot, or on an aircraft ambulance stretcher. ~~All~~ Sanitary precautions in the preparation for removal and in the removal shall be observed for the protection of the public health.

Subp. 3. **Embalming.** In all cases of communicable disease deaths the body shall be embalmed ~~as soon as practicable, and when the destination will not be reached~~ within 18 hours after death~~, the body shall be thoroughly embalmed before transportation~~. When a body, dead from a communicable disease, is held by a medical institution beyond 18 hours, the body must be embalmed as soon as possible after that time. Embalming shall include both arterial and cavity treatment, all orifices ~~and~~, discharging sinuses, and areas of broken skin closed with absorbent cotton and the body washed with a disinfecting fluid.

Subp. 4. ~~**Common carrier**~~ **Public transportation use.** When ~~a common carrier~~ public transportation is to be used, embalming is mandatory ~~and both a casket~~ and an ~~outside~~ acceptable container shall be ~~provided~~ used.

4610.1100 TRANSPORTING DEAD BY AIRCRAFT.

The transportation of human dead bodies by aircraft shall be permitted under the following conditions.

When the destination is outside the state, a body transported by aircraft shall be first ~~thoroughly~~ embalmed. It ~~may~~ shall be transported ~~in a standard mortuary basket,~~ on a regulation ambulance cot, or aircraft ambulance stretcher. When transported by ~~common~~ public air carrier it shall be embalmed and enclosed in ~~a casket and tight outside~~ an acceptable container.

Where a death caused by a disease listed as communicable in part ~~4610.1000~~ 4605.7040 occurs in a remote and inaccessible locality, the body in an emergency may be brought by aircraft to the nearest point having facilities and there ~~thoroughly~~ embalmed and prepared, as provided in ~~these rules~~ parts 4610.0700 to 4610.1800, before being transported further by aircraft.

4610.1200 TRANSPORTING DEAD OF NONCOMMUNICABLE DISEASE.

The transportation of human bodies dead of noncommunicable disease shall be permitted under the following conditions:

A. When the destination will be reached within 18 hours after death, the body shall be enclosed in a casket and a tight outside container. When transportation is to be made by automobile or aircraft, the outside container may be omitted, or the casket and outside container may both be omitted, and in such case the body shall be properly covered and encased in a ~~zipper~~ secured pouch~~, bag,~~ or ~~waterproof~~ impermeable sheet and transported ~~in a standard mortuary basket,~~ on ~~a regulation~~ an ambulance cot~~,~~ or ~~on an~~ aircraft ambulance stretcher.

B. When the destination will not be reached within 18 hours after time of death or if held by a medical institution beyond the 18 hours' notice of release from place of death, the body shall be thoroughly embalmed and ~~shipped~~ transported in accordance with the provisions in item A. Final disposition must be accomplished within 72 hours for all unembalmed bodies. Refrigeration is not considered a form of preservation or disinfection and does not alter the 72-hour rule.

4610.1300 TRANSPORTING DISINTERRED BODIES.

No disinterred body dead from any disease or cause shall be transported unless approved, as is required by parts 4610.2400 to 4610.2700, by the health authorities having jurisdiction. A burial-removal-transit permit signed by the local registrar or a subregistrar, as provided in part 4610.0900, is required.

All disinterred remains shall be enclosed in a sound, tight ~~box~~ container and not thereafter opened, provided that bodies in a receiving vault when prepared by morticians shall not be regarded as disinterred bodies unless the health officer so rules. ~~In townships having no physician as medical health officer for the township, a body shall be regarded as disinterred after the expiration of 30 days from the time of death.~~

4610.1500 ~~KIND OF~~ CONVEYANCES PERMITTED.

In the transportation of any dead body ~~the following conveyances may be used: baggage or express car, boat, hearse, ambulance, any standard automobile properly designed and manufactured for the transportation of dead human bodies, any wagon or sleigh, or airplane.~~, all ~~such~~ conveyances or vehicles shall have ample enclosed area to accommodate ~~a standard mortuary basket, a regulation~~ an ambulance cot~~,~~ or aircraft ambulance stretcher in a horizontal position and shall be so designed as to permit loading or unloading without excessive tilting of the cot ~~or basket~~.

4610.1550 REMOVAL OF INFANTS.

Any body measuring less than 36 inches may be transported in a passenger automobile after having been properly covered and encased.

For purposes of this part "passenger automobile" means a motor vehicle designed and used for carrying not more than ten persons, including station wagons, but excluding motorcycles and motor scooters.

4610.1600 MOVING BODIES LOCALLY.

When ~~the transportation rules~~ parts 4610.0800 to 4610.1550 do not apply, embalming is not required if the body is to be buried or cremated within 72 hours after death.

4610.1700 ~~ARSENICAL~~ FORBIDDEN COMPOUNDS IN EMBALMING ~~FLUIDS~~ CHEMICALS.

No embalming fluid containing compounds of arsenic, mercury, zinc, or other poisonous metals shall be sold or used in Minnesota for or in the embalming of dead human bodies ~~for burial~~.

~~Provided that in case it appears necessary to hold a dead human body for 30 days or more before burial, the county coroner after an investigation by him as to the cause of death may issue a written order permitting the use of compounds of arsenic, mercury, zinc, or other poisonous metals in the preservation of such body.~~

In the ~~shipment~~ transport of the dead in Minnesota when embalming is carried out, the fluid shall be of a quality and used in sufficient quantity to properly embalm the body.

4610.1800 ~~OUTSIDE~~ TRANSPORTATION CONTAINER.

Every ~~outside~~ transportation container shall bear at least four handles and when over five feet six inches in length shall bear six handles.

4610.1900 OPENING OF ~~SEALED~~ DISINTERRED CASKETS.

The opening of ~~hermetically sealed~~ caskets containing disinterred remains ~~of persons dead from any cause and shipped for burial in Minnesota~~ is ~~hereby~~ forbidden except when ~~so~~ ordered by a court of competent jurisdiction.

4610.2000 ~~ASHES OF THE DEAD~~ CREMATED REMAINS.

Cremation of a dead human body shall be considered as a final ~~disposal~~ disposition of that body. No additional permit covering transportation, interment, or other ~~disposal~~ disposition of ~~ashes of a cremated body~~ cremains, or concerning the kind of container in which ~~such ashes~~ the cremains are placed for preservation or transportation is required. When cremation is selected as a method of disposition, cremation must be accomplished 72 hours from the time of death on all unembalmed bodies.

When a container or urn for cremains is offered or provided, it shall be of adequate size to enclose the entire cremains. Commingling of cremains shall not be permitted without written permission from next of kin.

4610.2100 SERVING OF FOODSTUFFS IN FUNERAL ESTABLISHMENTS.

In the interest of safeguarding public health, safety, welfare, and sanitation, the serving of food to the public in a funeral establishment is prohibited. For the purpose of this part, beverages served in single use disposable containers shall not be considered food.

4610.2200 PERMIT FOR DISINTERMENT AND REINTERMENT.

No person except a mortician, and then only after first having obtained a permit ~~therefor~~ from the local health officer and the local registrar or a subregistrar, as hereinafter prescribed, shall disinter the body of a deceased person; provided, the authorities in charge of a cemetery may transfer bodies buried therein from one part of ~~such~~ the cemetery to another part thereof with the approval and under supervision of the local health officer. Any person desiring ~~such~~ a permit shall first secure from the ~~actuary or secretary or other~~ person in charge of the cemetery records a written statement showing that ~~such~~ the body is buried in that cemetery and ~~giving thereon~~ give the name of deceased, age at the time of death, date of death, cause of death, and date of burial. ~~He~~ A person shall present this statement to the proper local health officer and make application for permission to disinter and remove ~~such~~ the body.

Provided, if there is no ~~such~~ cemetery record then ~~such~~ a statement by relatives of the deceased or other competent person or persons who are empowered to cause such disinterment and removal shall be presented. ~~Provided further,~~ If the health officer has cemetery records of the cemeteries in ~~his~~ the municipality of the health officer and a record of ~~such~~ interment, no ~~such~~ written statement need be secured or filed ~~with him~~.

The local health officer shall question the applicant as to the manner in which it is proposed to disinter, handle, and dispose of the remains, and shall give and enforce ~~such~~ directions for disinterment, removal, and reinterment as ~~he deems~~ necessary for the protection of the public health. ~~Such~~ The local health officer shall ~~thereafter~~ notify the local registrar or subregistrar orally or in writing ~~if he~~ that the application has been approved ~~such application~~. The applicant shall ~~thereupon~~ apply to the registrar or ~~to a~~

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subregistrar, who shall issue in duplicate a written disinterment-reinterment permit, using ~~for such purpose~~ the burial-removal-transit form ~~now~~ provided by the commissioner of health for original interments and noting ~~thereon~~ on the forms the words "disinterment-reinterment permit."

The mortician shall ~~furnish~~ give the sexton or person in charge of any cemetery, burial place, or other premises in which the disinterment is made, a duplicate copy of the disinterment-reinterment form. The sexton or person in charge ~~of the final resting place~~ shall not inter or permit the interment or other disposition of the disinterred body of a deceased person until ~~he receives~~ a disinterment-reinterment permit is received.

4610.2300 SANITARY CONDITION OF ~~MORTUARIES~~ FUNERAL ESTABLISHMENTS.

Subpart 1. [See Repealer.]

Subp. 2. **Preparation and embalming room.** All ~~mortuaries and funeral directing establishments~~ preparation and embalming rooms shall be maintained in a sanitary manner at all times. A properly lighted and ventilated preparation and embalming room shall be provided in every ~~mortuary or~~ funeral ~~directing~~ establishment. It shall have a ~~tile, terrazzo, concrete, composition, or linoleum-covered~~ nonporous floor which shall be kept ~~in a smooth and easily cleanable condition and made free and clear~~ clean and free of dust, dirt, refuse, and other ~~contaminations~~ contaminates. ~~The operating or embalming table shall have a tile, metal, or other hard surface sanitary top~~ Each room must have a nonporous preparation and embalming table. The ~~floors and~~ floor, walls, and ceiling of the preparation and embalming room and all embalming ~~or~~ tables, dressing tables, ~~portable couches, cooling boards~~ temporary tables, removal cots, stretchers, and ~~transfer cases~~ transportation containers shall be kept in a clean and sanitary condition.

~~Subp. 3. **Embalming room.**~~ The ~~operating or~~ embalming and preparation room shall be provided with ~~an adequate~~ a water supply approved by the department of health. ~~Liquid~~ Waste from the ~~operating or~~ embalming ~~tables~~ process shall be directed to an open fixture which is properly vented and connected to the building drainage system. Where a municipal sewerage system is available, the building drainage system shall be discharged into the municipal sewage system; where such a system is not available, the building drainage system must be discharged into a satisfactory private system of waste disposal. There shall be no connection or other arrangement from any plumbing fixture or device whereby unsafe water or other foreign material may be discharged or drawn into a safe water supply. Every plumbing fixture, receptacle, and water supply tank shall be provided with a proper air gap or other acceptable device to prevent backflow into the water supply. (See appendix to plumbing code.)

Subp. ~~4.~~ 3. **Removal of waste.** Refuse, bandages, cotton, and other wastes shall be collected in ~~proper and convenient~~ approved receptacles ~~which shall be~~ as provided in the ~~operating and~~ embalming and preparation ~~rooms~~ room. All ~~such~~ waste shall be handled in a sanitary manner and destroyed by incineration ~~and all~~. Embalming tables, hoppers, sinks, receptacles, instruments, positioning blocks, and other appliances used in the embalming of dead human bodies shall be thoroughly cleaned immediately ~~after the preparation of the case is completed~~ upon completion of preparation and embalming.

4610.2400 DEFINITIONS.

Subpart 1. **Application.** For the purposes of parts 4610.0200 to ~~4610.2700~~ 4610.2800, the words, terms, and phrases listed in this part shall have the meaning stated ~~herein~~, unless the language and context clearly indicates that a different meaning is intended.

Subp. 1a. **Alternative container.** "Alternative container" means a rigid container other than a casket used for burial, cremation, or entombment of a dead human body.

Subp. 2. [See Repealer.]

Subp. 3. **Cash ~~advanced items~~ advance item.** "Cash ~~advanced items~~ advance item" means ~~items~~ any item of merchandise ~~and services provided by other than the mortician, funeral director, or funeral establishment, the liability for which is incurred by the mortician, funeral director, or funeral establishment on behalf of the funeral arranger and listed on the itemization form~~ or service described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services, casket bearers, public transportation, clergy honoraria, flowers, musicians or singers, obituary notices, gratuities, and death certificates.

Subp. 4. **Casket.** "Casket" means a container commonly used to enclose a dead human body for the purposes of the funeral and final disposition.

Subp. 4a. **Commissioner.** "Commissioner" means commissioner of the Department of Health.

Subp. 4b. **Cremains.** "Cremains" means the ashes of a dead human body.

Subp. 5. **Cremation/~~calcination~~.** "Cremation~~/calcination~~" means the use of direct flames or intense heat to reduce the dead human body to ashes and inorganic bone fragments.

Subp. 6. **Destination.** "Destination" means the city or town of final disposition.

Subp. 6a. **Direct cremation.** "Direct cremation" means a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

Subp. 7. [See Repealer.]

Subp. 8. **Embalming.** "Embalming" means a process of chemically treating the dead human body to reduce the presence and growth of organisms, to retard organic decomposition and to restore an acceptable physical appearance.

Subp. 9. **Funeral service.** "Funeral service" means the rites or ceremonies ~~connected~~ associated with the ~~final~~ disposition of a dead human body with the body present.

Subp. 9a. **Funeral establishment.** "Funeral establishment" has the meaning given the term in Minnesota Statutes, section 149.08.

Subp. 9b. **Funeral goods.** "Funeral goods" means goods that are sold or offered for sale directly to the public for use in connection with funeral services.

Subp. 10. [See Repealer.]

Subp. 10a. **Immediate burial.** "Immediate burial" means a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present.

Subp. 10b. **Memorial service.** "Memorial service" means the rites or ceremonies without the body present.

Subp. 10c. **Outer burial container.** "Outer burial container" means a container that is designed for placement in the grave into which the casket is placed including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

Subp. 11. **Preparation of the body.** "Preparation of the body" includes such items of care as ~~the setting of features, restorative procedures, washing, disinfecting, care of hair, shaving, dressing, and casketing~~ washing, disinfecting, shaving, positioning of features, restorative procedures, care of hair, dressing, and casketing.

Subp. 12. **Professional services.** "Professional services" includes the provision of staff for arrangements, visitations, funeral, memorial service ~~when the body is not present~~, final disposition, counseling, and administrative services such as ~~counseling,~~ securing~~,~~ and preparing necessary documents.

Subp. 12a. **Public transportation.** "Public transportation" means all forms of transportation available to the general public including airlines, buses, and rail.

Subp. 13. **Transportation costs.** "Transportation costs" includes the vehicle used for the initial transfer of the deceased, funeral coach, funeral sedans, flower car, service/utility car, ~~and the~~ use of ~~common carriers~~ public transportation where needed, and others.

Subp. 14. **Use of facilities.** "Use of facilities" means:

A. provision of chapel or room for the funeral or memorial service and/or provision of facilities for parking, ~~counseling~~ arrangement offices, and other administrative purposes; and

B. provision of chapel or room for visitation/reviewal.

4610.2500 ITEMIZATION OF FUNERAL COSTS.

~~Before final agreement is reached between the client and funeral establishment~~ At the time funeral arrangements are made the mortician or funeral director shall give or cause to be given to the person(s) making arrangements, a written disclosure with the items and costs listed separately as required by Minnesota Statutes, section 149.09, subdivision 1.

As a minimum the disclosure shall include a statement of charges for casket, outer burial ~~vault~~ container, use of facilities for reviewal, use of facilities for funeral services, specifically itemized transportation costs, specifically itemized funeral ~~service merchandise~~ goods, embalming, preparation of the body, other professional services, ~~and~~ anticipated cash advances and expenditures, and if applicable, forwarding of remains, receiving of remains, immediate burials, and direct cremations. When cremation is ~~to be~~ the method of final disposition the disclosure shall have printed in conspicuous print: "Minnesota law does not require that remains be placed in a casket before or at the time of cremation."

A copy of the itemized statement ~~(funeral expense contract)~~ of funeral goods and services selected shall be given the person(s)

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making funeral arrangements. The contract shall be signed by both parties and the funeral establishment shall retain a copy for three years thereafter.

If the charge for any item is not known at the time the contract is entered into, the establishment representative shall give his/her best estimate of the charges and advise the purchaser(s) of the exact charge as soon as the information becomes available.

No funeral establishment shall bill or cause to be billed any item that is referred to as a ~~"cash advanced"~~ advance item unless the net amount paid for such item or items by the funeral establishment is the same as is billed to the funeral establishment. The term "net" is not meant to include any discounts that may be allowed for prompt payment by the funeral establishment.

4610.2700 FORM OF AUTHORIZATION TO EMBALM.

The written authorization statement shall be as follows:

Authorization to Embalm

I authorize _____ and its staff, agents or representative to embalm the body of _____. I am a relative of the deceased and/or am entitled to custody of the deceased. I understand that embalming is ~~not~~ required by Minnesota law ~~except~~ as provided by parts 4610.0800 to 4610.1600.

1) The deceased is to be sent out of state by ~~common carrier or aircraft~~ public transportation,

2) Death is due to communicable disease,

3) More than 18 hours will elapse from time of death to arrival at the destination, or

4) Final disposition of the deceased is longer than 72 hours after death.

_____
name, relationship

_____
name, establishment representative

4610.2800 FEES.

Subpart 1. **Generally.** Fees for registration, examination, and licenses under parts 4610.0200 to 4610.0600 are in subparts 2 and 3.

Subp. 2. **Mortuary science fees.** The following fees are mortuary science fees:

A. trainee registration and renewal fee, $25;

B. examination fee, $50;

C. original license fee, $40;

D. license by endorsement, $200;

E. renewal fee, $40; and

F. renewal fee late charge, $10.

Subp. 3. **Funeral directors.** The following fees are funeral director fees:

A. application fee, $50;

B. renewal fee, $40; and

C. renewal fee late charge, $10.

Subp. 4. **Funeral establishments.** The following fees are funeral establishment fees:

A. funeral establishment permit fee, $110;

B. renewal permit fee, $110; and

C. renewal permit late charge, $15.

RENUMBERING INSTRUCTION. Renumber parts 4610.0200 as 4610.0410; 4610.0300 as 4610.0420; and 4610.2100 as 4610.2210.

REPEALER. Minnesota Rules, parts 4610.0500, subpart 4; 4610.0600, subpart 5; 4610.1400; 4610.2300, subpart 1; and 4610.2400, subparts 2, 7, and 10; are repealed.

(4)

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Amendments to Rules 4610 Relating to Morticians, Funeral Directors, Funeral Establishments and the Disposition of the Dead

STATEMENT OF NEED AND REASONABLENESS

The above-captioned rules are proposed amendments to existing rules of the Commissioner of Health (hereinafter "Commissioner") relating to Mortuary Science, 4610 including revisions of Minnesota Rule 4610.200 through 4610.2800 statutory authority of the Commissioner for promulgation of these rules is contained in Minn. Stat. §§ 149.02 and 149.05, Minn. Laws of 1973, ch. 638, and Minn. Stat. §§ 144.12 and 144.122 (1978).

Chapter 4610, Department of Health, Morticians, Funeral Directors and the Disposition of the Dead is being revised primarily to remove obsolete and archaic language, to remove gender designations, to update definitions, to conform with the Dept. of Epidemology's list of communicable diseases, to delineate more clearly the requirements regarding transportation, storing and disposition of dead human bodies, to revise educational requirements for licensing in accordance with current accreditation requirements of the American Board of Funeral Service Education, to remove subjective or "value judgement" language of the former rule, to segregate all fees in a separate section, to more clearly define the role of the licensed funeral director in relationship with trainees, removals of dead human bodies from place of death, to remove negative requirements and replace with positive requirements (i.e. "shall" instead of "except"), to remove redundancy and needless

duplication in the former rule, to insert certain statutory requirements (e.g. 4610.0700) concerning exemptions for hospitals, medical colleges, coroners, etc. into the rule), to conform the rule in certain aspects to national requirements of the Federal Trade Commission, and to make the rule clearer and more understandable both to laypersons and those engaged in the practice of mortuary science/funeral service. It should be pointed out that there have been no revisions in this rule since 1976, and such revisions are clearly needed at this time.

4610.0200. RESIDENT TRAINEE IN MORTUARY SCIENCE, and

4610.0300. RESIDENT TRAINEE REGISTRATION. Both these sections have been logically moved and are to be renumbered to follow 4610.0400 (MORTICIANS QUALIFICATIONS) and immediately precede 4610.0500 (LICENSE APPLICATION, RENEWAL AND ENDORSEMENT FEES). This is a sequential revision only, and is made to insert trainee requirements and registration in proper, logical sequence after MORTICIANS QUALIFICATIONS.

4610.0400. MORTICIANS' QUALIFICATIONS.

Subpart 1. "As competent" deleted as subjective value judgement.

Subpart 2. "Minnesota" deleted, and deleted throughout, as adjective for Commissioner, since this is assumed now throughout the rule.

Subpart 3. Quarter credits revised to meet the current standards of the accredited standards of the American Board of Funeral Service Education (hereinafter known as ABFSE). "Zoology" deleted as natural science option as not relevant to funeral service. "Health education" (personal or community) added to conform with ABFSE requirements for public health course. "Mortuary science" deleted and replaced by "funeral service education" to conform with ABFSE language. "Conference

of Funeral Service Examining Boards" no longer accredits, replaced by ABFSE, which does accredit funeral educational requirements nationwide.

Subpart 4. "Effective Jan. 1, 1976" deleted as dated material, result of last rule change. "successfully" deleted as redundant in that "pass" denotes successful completion of examination. "adequately served" is deleted as a subjective judgement not under the purview of this rule. "health" is added after "public" to conform with aim of the rule. "on application at the next examination" is deleted as impractical, because exams are not regularly scheduled, and "reexamined" may be completed at any time.

Subpart 5. "of experience" deleted as unnecessary language. "participate" replaces "assist" to impose more active participation by the trainee in embalming, arranging and direction of funeral. "arranging" added for same reason, to ensure more active participation by trainee in all aspects of funeral service, including the making of funeral arrangements.

4610.0200 & 4610.0300. - - INSERTED HERE

4610.0200. "No" is replaced by "A person.," for positive statement instead of negative. "after that person" (instead of "he") is gender oriented revision, one of many throughout this rule revision. "46 quarter credit hours or 30 semester hours" to conform with ABFSE standards, and to permit easier transfer of semester hours to credit hours. "in the presence of" is deleted; something done in the mere presence of does not constitute training. "responsibility" is added to imply direct responsibility of the licensed person to the trainee. Also, a trainee is permitted more active role if under the responsibility of,

and not merely in the presence of, a licensed director. Added language, "A trainee shall be registered under only one mortician at any given time" imposes a one-on-one training relationship not found previously in the rule.

4610.0300. "he" replaced by "trainee" to remove gender, throughout this and other sections. "shall be signed by the mortician under whom the trainee is registered" is added to require one signature. Language beginning "If the mortician under whom one is registered..." is deleted because an owner (of a funeral establishment) is not necessarily a licensed funeral director, and need not be, in order to operate a firm in which there are licensed funeral directors.

Fee "in an amount specified in part 4610.2800" is added to consolidate all fees in a separate section of the rule, instead of within the rule as previously. Subsequent fee revisions may be made, then, in only one part of the rule, as a matter of convenience to the Department.

"Committee of Examiners" is replaced by Mortuary Science Advisory Council to conform with statutory change Chapter 260 approved and filed 6/6/83 designating the prior Committee an Advisory Council under statute.

4610.0500. LICENSE APPLICATION, RENEWAL AND ENDORSEMENT.

Subpart 1. Application "to the commissioner" clarifies old rule as to whom application is to be made. Also, fee amount is segregated to part 4610.2800.

Subpart 2. "all other" added to include subsequent requirements for original license approval. Fee amount again moved to 4610.2800, separate section.

Subpart 3. "technical" is deleted because examinations are not made on technical (practical) aspects of licensure. "prior to licensure"

is simply moved to end of part to correctly place it gramatically.

Subpart 4. Repealed. Dealt with "courtesy cards" no longer used. No courtesy card issued for past 30 years by the Mortuary Science Unit.

Subpart 5. Courtesy card removed, no longer issued. Fee segregated to separate section. Language beginning, "Such persons shall be required..." (to reapply) is deleted because the license has "automatically lapsed" already (preceding sentence), therefore they must apply for a new license at any rate. Unnecessary language.

4610.0600. FUNERAL DIRECTORS

Subpart 1. "as competent" removed as subjective. Statute correctly referred to as Chapter 149.

Old subpart 2 language, Application content and affidavit is deleted as it is believed that "reputable residents" of a county cannot be defined or verifed and furthermore that "good moral character" is a value judgement not within the purview of this rule. Subpart 1 is continued with language within previous Subpart 2 requiring affidavits from ordained religious leaders substantiating forbiddance of embalming (i.e. those of orthodox Jewish faith continue to be accommodated in rule).

"21" revised to "18 years of age" to coincide with the current adult age in Minnesota, and ABFSE standards for credit hours are incorporated into the rule. Requirement for official transcript is made, and the requirement that such study be specifically at the University of Minnesota is deleted because any school accredited by the ABFSE is acceptable.

"in order to verify completion of all credits,.." is deleted as redundant upon submission of official transcript above. "Such courses.," deleted as redundant, previously stated with ABFSE requirements.

"assisted" replaced by "participated" as more active training.

"arranging" added to direction of funeral for more complete training.

"funeral service directing and funeral service management" is current language describing "mortuary management".

"practical examinations" deleted, as these are not given or offered.

re-examination may be directed by commissioner, instead of "on application at the next annual examination". Exams are not regularly scheduled, and descretion is given to the commissioner for re-exams.

Subpart 3. Fee amount to part 4610.2800.

Subpart 4. Fee amount to part 4610.2800 and deletion of language after "lapse" as redundant.

Subpart 5. Repealed. Funeral Establishment Permit Requirements, formerly in Subpart 5, given separate section--4610.0650, below,

4610.0650. FUNERAL ESTABLISHMENT PERMIT

formerly Subpart 5 of previous section.

4610.0700. COMMUNICABLE DISEASE DEATH, PRIVATE FUNERALS

"shipped" to "transported" as more suitable language, and in conformance with Federal Trade Commission Rule (hereinafter known as F.T.C.) definition. See exhibit 7.

"smallpox and diptheria" deleted as dictating private funeral (erradicated, archaic language), and private funerals now as directed by the commissioner (for any cause). Private funeral is defined in new language, giving more discretion to the commissioner pursuant to public health needs, including "health, safety and welfare" specifically.

4610.0800. TRANSPORTATION OF THE DEAD

Preliminary language rephrased and found in new language beginning "The transportation of dead human bodies is governed..." to define objectives of this part of rule. "Public transportation" is included in new language, as common carrier referred to railroads in old language whereas public transportation includes airlines and bus transportation. No revision in embalming requirement for remains transported out of state.

Old language stating that only a mortician (person licensed to engage in) "shall call for and embalm..." a body whose death is caused by communicable disease, has been revised to include the revised requirement that ALL DEAD HUMAN BODIES, whether death caused by (or as a secondary cause of death) communicable disease, be removed from the place of death by a person licensed to engage in mortuary science, with exceptions listed below in this part, from statute.

It is hereby submitted that it would be good control logic to consider all bodies to be potential health hazards, in light of the fact that upon removal from place of death, the person making the removal has no way in many instances to know the exact cause of death, which may be communicable, nor whether or not a communicable disease was present at death, whether cause of death or not. It should be pointed out that no other regulation of the department, nor statute of Minnesota, requires "tagging" of remains if death occured with communicable disease present.

Knowledge of the proper techniques of body transfer, protective equipment available and basic knowledge and understanding of how to handle dead human bodies, makes it imperative that a person licensed

in mortuary science make such removals to avoid the possible spread of disease. Curricula of mortuary science training of ABFSE include precautions to be employed in removals of bodies infected by virus or other agents known to live on after the host organism has died.

SEE SUPPORTING DOCUMENTATION FROM HEALTH DEPARTMENT, UNIVERSITIES AND RECOGNIZED PROFESSIONALS, EXHIBITS 1 THROUGH 4, ON THIS REVISION OF RULE. ALL ATTEST TO THE PUBLIC HEALTH ASPECTS OF PRUDENT HANDLING OF DEAD HUMAN REMAINS.

Language beginning, "This part does not apply or shall in any way interfere..." is incorporated in the rule from statute, with the exception of the new language, "duly authorized personnel from a licensed ambulance service in the performance of their duties." This is an added exemption to recognize the fact that removals of the dead by licensed ambulance personnel, also training in proper handling, is clearly sanctioned by this rule giving their day-to-day responsibility of transporting those near death or D.O.A. (dead on arrival) at medical facilities.

"recognized religion" (rites or customs) also made an exception.

4610.0900. TRANSPORTATION PERMIT

"common carrier" is deleted, "rail, bus" is added, to make clear the modes of transportation requiring such permit. "transportation container" replaces "shipping container" as more suitable language. Language requiring permit to be handed to "sexton of cemetery...or health officer in cities that have local ordinances" is deleted, as in many cases sextons are not at the cemetery (if there is a sexton at all) nor have public health officers any need, or call for, transportation permits.

Instead, the permit "shall" (replaces, "may") be given to the person in charge of the remains at the destination.

Language beginning "agents, officials,.. of public transportation facilities" are not governed by Health Department rule, therefor are deleted from requirements of this section.

4610.1000. TRANSPORTING...COMMUNICABLE DISEASE

Subpart 1. Reference to specific communicable disease list in old rule is deleted because outdated, and replaced with new list by reference to a specific section 4605.7040, which lists all reportable communicable diseases. By this reference to 4605.7040, the list will be updated as necessary and by reference is incorporated in 4610. See Exhibit V. DEPARTMENT OF HEALTH ADOPTED RULES GOVERNING COMMUNICABLE DISEASE - DISEASE AND REPORTS.

Subpart 2. Method of conveying bodies is conveyed logically, i.e. wrapped in waterproof sheet, properly covered, and transported. "Standard mortuary basket" is deleted as archaic, not used at present.

Subpart 3. No revision in embalming requirements for communicable disease death, however "as soon as is practicable" is deleted as vague and replaced with the certain time span of 18 hours after death. No change from previous 18 hour requirement. To clarify further those situations in which a post-mortum is done, or hospital holds remains, the certain requirement is that the body will be embalmed "as soon as possible" when the body has been held at a medical institution for 18 hours.

"areas of broken skin" new requirement for embalming..,

Subpart 4. "common carrier" replaced by "public transportation", for reasons previously cited. "acceptable" container is one which will be accepted by the public transportation mode used, e.g. airline "shipping containers."

4610.1100. TRANSPORTING DEAD BY AIRCRAFT

Again, "standard mortuary basket" deleted as archaic, and "public transportation" replaces "common carrier" throughout. (Additional on remote locality death...)

4610.1200. TRANSPORTING...NONCOMMUNICABLE DISEASE

In "A", "zipper" is replaced by "secure" in recognition of new closures for pouches (e.g. velcro), and "impermeable" replaces "waterproof"

In "B", 18-hour holding in medical institution is again acknowledged as a condition of embalming, and final disposition within 72 hours (no change from former rule) is mandated. Refrigeration (new language) is not made an exception for 72-hour embalming requirement in Minnesota. (Note: In other states, as few as 24-hours are limits for unembalmed bodies.)

4610.1300. TRANSPORTING DISINTERED BODIES

Container being all inclusive and language currently used. In Townships... no longer relevent or applicable.

4610.1400. is included in 4610.0800 TRANSPORTATION OF THE DEAD

4610.1500. CONVEYANCES PERMITTED

Modes of transportation deleted as outdated. All conveyances would be all inclusive. Enclosed meaning to keep from public view. Standard mortuary basket is an archaic term.

4610.1550. REMOVAL OF INFANTS

Entire section was added to address an issue not previously entered into. 36 inches was an arbitrary length decided as proper to use in the transportation by automobile, Passenger automobile defined for clarification.

4610.1600. MOVING BODIES LOCALLY

Transportation rules deleted and reference made to specific parts of the Rule. Cremated was added to address a current means of disposition.

4610.1700. FORBIDDEN COMPOUNDS

Fluids is old terminology. Chemicals is term currently used. "for burial" did not include alternative methods of disposition e.g, cremation. Provided that... not needed as poisonous compounds no longer used. "shipment" is deleted as archaic, "transport" universally used and accepted.

4610.1800, TRANSPORTATION CONTAINER

Outside omitted and replaced with transportation to coincide with F.T.C. language.

4610.1900. OPENING OF DISINTERRED CASKETS.

"Hermetically sealed" removed to include the opening of all caskets, of persons dead from any cause and shipped for burial in Minnesota removed to mean the opening of all caskets of disinterred remains be prohibited.

4610.2000. CREMATED REMAINS

"ashes" are not technically the result of cremations, rather "cremains" is the correct term, academically and by common usage. Cremation, as a form of final disposition, also requires 72-hour embalming requirement, same as burial form of disposition. Language added to specify that urn shall be of sufficient size to contain cremains, and commingling of cremains is not permitted without written permission of next of kin. This new language addresses allegations of insufficient size urns to enclose cremains, and cases of unapproved commingling of cremains in California and Oregon that resulted in litigation as an undignified method of cremains disposal.

4610.2100. SERVING OF FOODSTUFFS. No revision was moved in sequence to be addressed under funeral establishments.

4610.2200. PERMIT FOR DISINTERMENT

"therefor" language not used, "actuary or secretary or other" not relevant. "giving thereon" archaic language. "provided further" not needed.

4610.2300. SANITARY CONDITION OF FUNERAL ESTABLISHMENT "MORTUARIES" deleted and replaced by "FUNERAL ESTABLISHMENT" to coincide with statute language.

Subpart 1. Repealed. Moved to definitions - See Funeral Establishment

Subpart 2. "preparation" added because not always is it the embalming room in mortuaries. "non-porous" allows flexibility in building materials used in floor, removing dated specific materials to be used (archaic in light of new building materials).

Subpart 3 was removed but included as part of subpart 2. "Embalming room" and "operating" were deleted as old language and replaced by "embalming" and "preparation" to conform to current terminology and in conformance to F.T.C. rule. "adequate" is vague and "approved by the Dept. of Health" added to clarify acceptance. Exhibit VI. See appendix to plumbing code.

Subpart 4. renumber 3 due to inclusion of former subpart 3 in subpart 2. "proper and convenient" vague and not needed. Handled in a sanitary manner added as guidance to personnel in proper handling.

4610.2400 DEFINITIONS

State conformance with FTC Rule for standardization of terms in Minnesota to national nomenclature and that recognized by F.T.C.

Subpart 1a. Alternative container - new language consistent with FTC rule current terminology.

Subpart 2. Burial vault interment receptacle now called outside burial container - see definition.

Subpart 3. advanced items changed to advance item to conform to F.T.C. rule as well as to terminology used and deleted in the remaining sub-paragraph.

Subpart 4. No revision

Subpart 4a. Cremains - current language used as defined.

Subpart 5. Calcination deleted to conform with F.T.C. as well as the use of the term cremation.

Subpart 6. No revision

Subpart 6a. Direct cremation - F.T.C. term and definition currently used in rule.

Subpart 7. Disposal Unit - improper and distasteful language (see alternative container)

Subpart 8. No revision

Subpart 9. Funeral Service - currently accepted terminology. "connected" was deleted as poor language with "associated" used as a proper term. "final" was deleted as redundant.

Subpart 9a. Funeral establishment _ self explanatory

Subpart 9b. Funeral goods - Definition used currently in F,T.C. rule.

Subpart 10. Funeral Service Merchandise - See Funeral goods 9b

Subpart 10a. Immediate burial - definition as currently used in F,T,C. rule.

Subpart 10b. Memorial service - F,T.C. definition and terminology currently used.

Subpart 10c. Outer burial container - current F.T.C. term used and replaces the term burial vault/interment receptacle subpart 2.

Subpart 11. Preparation of the body - sequence was changed to proper logical order in the preparation of the body.

Subpart 12. Professional services - memorial service was previously defined with the elimination of where the body is not present. Counseling was added after disposition in order to allow for proper sequence.

Subpart 12a. Public transportation was added as new language used by the Department of Transportation.

Subpart 13. Common carrier was deleted as old language with the addition of public transportation as current and proper language. And others was added as leaving open to addition of future modes of transportation.

Subpart 14. Use of facilities - counseling was deleted as improper and replaced by arrangement as a more appropriate term.

4610.2500. ITEMIZATION

"At the time..." instead of "before" because itemized costs cannot be known before arrangements are made, depending upon what is selected by the family making arrangements. "if applicable" added because these are alternatives to minimum disclosures for a full service (e.g. forwarding of remains to another city) and not a total service.

4610.2700. FORM OF AUTHORIZATION

"not" and "except" are removed as negative and confusing language to the public in determining when embalming is required. A simple statement that there are four conditions for embalming, replacing

the "not" and "except as" makes it clearer to the public exactly under what condidtion embalming is required, e.g. 18 hour, 72 hours after death.

4610.2800. FEES

See exhibit VII Proposed fee increase memo from David Carlson, Financial Management shows analysis of budget and fee schedule providing support for fee increase.

See exhibit VIII Justification for raise of funeral establishment and endorsement fee.

These rules minimize the duplication of statutory language. See Minnesota Statutes, section 14.07, subdivision 3 (1,2,3). The implementation of these rules will not require the expenditure of public money by local public bodies of greater than $100,000. in either of the two years following their adoption, nor do the rules have any impact on agricultural land. See Minnesota Statutes, section 14.11. The adoption of these rules will have little effect on small businesses. Funeral establishments are considered small business as defined in Minnesota Statute 14.115. With consideration given to this rules impact on small business notification of revision of the rule has been given the Minnesota Funeral Directors Association of which 95% of the licensed funeral establishments are members.

SF-00008-03

STATE OF MINNESOTA

DEPARTMENT HEALTH

Office Memorandum

TO: David Schweitz

DATE: January 27, 1986

FROM: David Carlson
Financial Management

PHONE: 623-5077

SUBJECT: Proposed Fee Increase

I have analyzed your budget and current fee schedule and I concur with the proposal to increase fees as indicated on the attached budget analysis. The fee increases are due in most part to the department's decision to forego the administrative support provided to the Podiatry Board by Mortuary Science staff and recovery of the cost of .10 professional positions, .10 clerical positions and related indirect costs (approximately $7,000).

DC:dmt
Enclosure
cc: David Hovet

Mortuary Science
Budget Analysis
Fiscal Year 1986

1/27/86
EC

	1 Object Code	2 Expense Category	3 Current Budget		4 Projected Expenditures		5 Balance	6
1	01	Regular Classified	89,440		89,938			(498)
2	08	Misc. Payroll	500		560			(60)
3		Subtotal		89,940		90,498		(553)
4								
5	14	Printing	300		616			(316)
6	16	Prof/Tech Services	1,000		392			608
7	17	EDP	300		0			300
8	18	Purchased Services	0		50			(50)
9	20	Communications	1,500		1,616			(116)
10	21	In State	6,375		6,641			(266)
11	22	Out State	425		425			0
12	29	Dues	300		460			(160)
13	30	Supplies	300		300			0
14		Subtotal		10,500		10,500		0
15								
16		Indirect Cost (15.1%)	15,166		15,251			(85)
17		Subtotal		15,166		15,251		(85)
18								
19		Total		115,606		116,249		(643)
20								
21			Current Fee Schedule			Proposed Fee Schedule		
60	22	Mortuary Science Trainee	@ $10	$ 600		@ $25		$ 1,500
1,380	23	Mortician	40	55,200		40		55,200
155	24	Funeral Director	40	6,200		40		6,200
502	25	Funeral Establishment	75	37,650		100		50,200
10	26	Reciprocal License	100	1,000		200		2,000
50	27	State Board Exam	25	1,250		50		2,500
	28	Original License	25	1,250		40		2,000
50	29	Total Receipts		$ 103,150				$ 119,600
	30							
	31							
	32	The cost of this activity is the salary of 2.0 professional						
	33	positions, 1.0 clerical position, related supplies and						
	34	expenses, and indirect costs.						
	35							
	36							
	37							
	38							
	39							
	40							

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SF-00006-03

STATE OF MINNESOTA

DEPARTMENT Health

Office Memorandum

TO: David Hovet
Financial Management

DATE: February 19, 1986

FROM: David F. Schwietz DFS
Mortuary Science Unit

PHONE: 5655

SUBJECT: Justification for raise of funeral establishment and endorsement fees,

In past years we have been inundated with letters and phone calls from licensed retirees and inactive licensees as to licensure by payment of a lower fee. Research was done and found we could not exist without the support of the inactive licensees renewal fees. A decision was made at that time to continue the fee schedule as is to assure a stable budget,

Most of our expenses in the field are with investigations and inspections of funeral establishments, therfore we can justify the raise in funeral establishment permit fees. The problem has been discussed with our advisory council and licensees in the field with support coming from all concerned,

As to the license by endorsement, we feel justified in the fee charged as each individual is given an examination and time spent with each individual in proctoring the exam. The workup on each licensee by endorsement is quite involved as proof of licensure from another state must be provided as well as transcripts from an accredited school of mortuary science also transcripts from the college of pre-mortuary science. All has to be evaluated and proof of the National Board passage provided,

The proposed fee increase is in line with fees charged by other states and have met with approval by all concerned,

RECEIVED
FEB 27 1986
FINANCIAL MANAGEMENT

DEPARTMENT OF FINANCE

Approval for Increased Fees For
Funeral Establishment and Funeral Director Licensure

Minnesota Statutes § 149.08 authorizes the Commissioner of Health to set fees for the registration and renewal of funeral establishments and funeral directors. The Commissioner would increase the current fee, in accordance with Minnesota Statutes § 16A.128, which requires that the fees generated cover the cost of the program.

Upon review of the attached supporting information justifying the need and amounts of the proposed fees and pursuant to authority vested in the Department of Finance under Minnesota Statutes § 16A.128 (1984), the fees set forth in the proposal of the Commissioner of Health are hereby approved.

Richard D. Hafft
Director, Budget Operations and Support

2-26-86
Date

III

UNIT II. THE EMBALMING ENVIRONMENT

Chapter 6. Personal Health and Public Safety Considerations

Gordon W. Rose, Ph.D.
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PERSONAL HEALTH AND PUBLIC SAFETY CONSIDERTIONS

The art and the multidisciplinary science of embalming has historically encompassed the principles and practices related to the implications of public health concern in the process of preserving and disinfecting human remains. The epidemiologic basis of this concern has been established and documented by several related studies.

The practitioner of embalming is professionally responsible for a three tiered spectrum of public health safety; personal, the embalmer's immediate family, and the community served by the embalmer. The first level of responsible practice involves the maintenance of a work environment which is hygienically clean and safe. The embalmer must be constantly aware of the needs for the use of protective barrier attire, disinfection and decontamination chemistry and practices, the identification of primary work environment reservoirs of actual and potential infectious disease hazards. The "at risk" nature of preparing human remains for disposition demands the implementation of effective personal health and safety measures if funeral service is to offer acceptable standards of quality assurance and quality control, a reasonable expectation of the community.

In recent years, critics of the practices of conventional and traditional funeralization, involving embalming and in-state viewing, have alleged that embalming is of little value in terms of accomplishing public health protection. Surprisingly, even individuals with eductional and practical backgrounds in

the physical and biologic sciences argue that unembalmed remains are harmless and do not constitute reservoirs of classical or opportunistic pathogens. Several of the critics of embalming erroneously maintain that "germs die with the host," a most dangerous assumption on the part of anyone responsible for the handling and preparation of human remains.[1]

An extensive review of literature pertinent to the public health hazards associated with human remains was conducted in 1968 by Maude R. Hinson, a medical research librarian, and sponsored by The Embalming and Chemical Manufacturers Association.[2] The review included abstracts of 88 bound references and 265 journal publications which repeatedly referred to the persistence and survival of pathogenic microbial agents in unembalmed remains. The review also indicated that the absence of antemortem cellular and chemical body defense mechanisms contribute to increased virulence factors associated with postmortem microflora.

Laboratory studies involving the postmortem microbiologic evaluations of specimens procured from remains certified to have died from causes other than an infectious disease have confirmed that unembalmed remains constitute an ideal environment for microbial growth and proliferation. The normally operative antemortem epithelial, fascial, and other tissue barriers which tend to maintain systemic an/or anatomic localization of host microflora during life may undergo loss of structural integrity soon after somatic death. This

loss of structural, systemic compartmentalization of endogenous microflora characteristic of a given ~~functional~~ system, e.g. upper respiratory tract, genitourinary tract, gastrointestinal tract, contributes to the postmortem translocation and redistribution of host microflora on a host-wide basis. The reticuloendothelial system (RES), another non-selective barrier to antemortem translocation contributes to the same phenomenon of microbial relocation after death. The blood-brain barrier, an example of one of the antemortem anatomic defenses against microbial invasion of the central nervous system becomes inoperative soon after death. Endogenous invasion of cerebrospinal fluid by bacterial agents associated with the colon occurred within 4 to 6 hours after death. The colon, designated as the postmortem origin of "indicator" organisms recovered from extraintestinal sampling sites, seemed to be the primary source of many of the translocated microbial agents. The isolation of "indicator" organisms as well as non-indicator organisms from such sampling sites as the left ventricle of the heart, lungs, urinary bladder, and the cisterna cerebellomedularis, was indicative of the extent to which microbial agents of low, moderate, and high virulence could translocate within a relatively brief post-mortem interval of 4 to 8 hours.

The postmortem multiplication of systemic and translocated recoverable microbial agents may begin within 4 hours after somatic death and reach peak densities of 3.0 to 3.5 X 10^6 organism per ml of body fluid or per gram of body tissue within a 24 to 30 hour postmortem interval.[3]

Postmortem factors contributing to the translocation of endogenous microflora include chemical and physical changes, movement and positional changes of the remains, passive re-circulation of blood from contaminated body sites, thrombus fragmentation and relocation, and the inherent true motility of many of the intestinal bacilli. The relocated organisms may exit from body openings, natural and other, and become associated with adjacent animate and/or inanimate surfaces. They may also become airbone particulates in the form of aerosols (droplet infection particles) or dried particles (droplet nuclei) and constitute sources of body surface, upper respiratory, or other body site contamination of living tissues.

A factor not to be ignored by the embalmer is the all too frequent lack of information related to deaths caused by reportable contagious or communicable infectious diseases. Throughout the United States there seems to be considerable inconsistency on the part of health care facilities, acute, general, and extended, to alert the receiving funeral director or funeral home that an infectious disease was the primary or a contributing cause of death. Preparation of the remains may often precede access to the death certificate and the notification of the embalmer of the increased risk, either by "red tagging" of the remains and/or direct communication with the funeral service firm, would enable the embalmer to exercise all appropriate personal health protection measures. Such a reporting system is to be encouraged within our health care delivery systems and agencies at the national, state,

and local levels. The current deficiencies in the notification scheme make it incumbent on the embalmer to consider each embalming case a potential public health risk and to employ maximal personal protection measures as recommended for a margin of safety against any density or level of recognized or opportunistic infectious agents.

Dr. Charles W. McCurdy wrote in a manuscript dated 1896 and entitled, Embalming and Embalming Fluids, "In the disposal of the dead, that process is most natural, most scientific ... which protects the living from disease, death and anguish of soul."[4] The history of funeral service parallels the history of preventive medicine in the United States. Well over a century of preventive medicine has been recorded since its recognition in 1859. It has always reflected a progressive evolution in regard to the causes, the prevention, and the control of infectious disease. The first boards of health, established in Massachusetts and California in 1869 and 1870, respectively, were followed by 32 other formations of State boards of public health by the turn of the century. This added much impetus to the branch of science related to the regulation of public health and the prevention of infectious diseases. The "undertakers" of this earlier era were considered to be sanitarians and practitioners of public health and, at the time, these responsibilities were classified as the primary professional obligations of funeral service. Funeral Service practitioners protected "the living from disease" during the pandemic occurrences of influenza in 1918, 1938, 1958, and beyond, during the epidemicity of poliomyelitis in the

1950's, the endemicity of tuberculosis, herpetic infections, serum hepatitis, and several other infectious diseases of past and current concern. Infectious disease risks have always been present in the professional practices of funeral service. Viral hepatitis (types A and B), systemic mycoses, upper respiratory infections of viral and bacterial etiology, bacterial and viral encephalitides, the acquired immune deficiency syndrome (AIDS) are examples of a few of the infectious diseases that place the embalmer in an "at risk," but a very important public health protection role.

Many deaths are caused by the direct effects of recognized or opportunistic pathogens; many deaths are caused by the indirect effects of infectious agents. Embalmers must learn to effectively employ acceptable standards of public health protection techniques on ALL remains, no matter what the indicated cause of death may be. Under these conditions of practice, the risk of transmitting an infectious "dose" of a pathogenic agent from a victim of infectious disease is minimized. For example, studies have indicated that the number of small diameter microbial aerosols necessary to cause upper respiratory infections via the respiratory alveoli is small, often less than ten viable organisms. The dosage with larger diameter biologic particles may be as high as 1000 to 10,000 or more.[5] The causes of diphtheria, streptococcal pharyngitis, measles, or influenza, e.g., involve the inhalation of the larger particles. Several observers have discussed the risk of the aerosol dissemination of tubercle bacilli in the postmortem environment. If a victim

of tuberculosis could originate an infected particle for every 200 cubic feet of air prior to and during the embalming process, an embalmer breathing about one-third of a cubic foot of air per minute might inhale an infectious dose during a relatively short exposure period. This example of airborne biologic contaminants emphasizes the importance of an efficient air handling system in the preparation room, e.g. a minimum of six complete air exchanges per hour, preferably more, e.g. up to twenty exchanges per hour.

The following public health guidelines were prepared in behalf of and published by the Memorial Affairs Division, Air Force Logistics Command, United States Air Force, for implementation by assigned personnel, military and civilian, at all installations involved in the preparation of remains of deceased military personnel or their dependents. The guidelines were reviewed and approved by the National Institutes of Health (Environmental Services, NIH), OSHA-Air Force, and the Surgeon General's Office-Air Force. The guidelines, with updating revisions, are recommended as the basis for developing personnel health policies and public health practices in all funeral service firms. Several State Boards of Examiners in Mortuary Science have recommended the guidelines to all licensed funeral service practitioners in their respective states of jurisdiction. The guidelines were reviewed by the staff of the Environmental Safety Branch (ESB), National Institutes of Health, in 1978 and the opinion expressed by the Chief of the ESB was, "It is our opinion that such guidelines and regulations are most important from

a public health standpoint. There must be proper protection for the mortician, pathologist, and others, as well as the community. We believe this because of the problems of emerging pathogens."[6]

PUBLIC HEALTH GUIDELINES:

1. PURPOSE: To provide procedural guidelines in the areas of public health, personal hygiene and safety as they pertain to the practices of personal and environmental disinfection and decontamination by practitioners of mortuary services. Prevention of the following is a reasonable expectation of the proper practice of the guidelines:

a. The transmission of actual ~~(recognized)~~ and/or opportunistic pathogens from human remains to the embalmer.

b. The transmission of pathogens from the embalmer to susceptible hosts within the mortuary facility environment or to members of the embalmer's family.

c. The transmission of pathogens from the preparation room environment to family and friends of the deceased, and/or to other visitors to the Mortuary.

2. PREMISE: Many of the infectious agents associated with the medical and the paramedical environments are categorized as "opportunistic" pathogens or microbial agents normally considered to be of low virulence. The increasing association of "opportunistic" pathogens with infectious disease has all but eliminated the reference, "non-pathogenic." There seems to be general agreement that a "non-pathogen" is simply a microbial agent that has not yet overcome the defense mechanisms of a suitable host. Such opportunistic organisms are always

a part of the postmortem microflora to which the embalmer is exposed and against which appropriate environmental control measures should be taken.

3. CONCURRENT DISINFECTION AND DECONTAMINATION:

A. The Human Remains

(1) Thoroughly cleanse and sanitize the body surface and body openings with a suitable generic category of chemical disinfectant, e.g. 150 - 200 ppm of an Iodophor, 0.5% use-dilution of a phenylphenol, one of the latest generations of a quaternary ammonium complex, 1000 to 10,000 ppm of hypochlorite, etc. The case analysis evaluation of the remains conducted during the sanitizing procedures may indicate a need for chemical disinfectant concentrations higher than routinely recommended. For example, evidence of gas gangrene should alert the embalmer to increase the recommended use-dilution level two to three times that normally employed.

(2) Thoroughly rinse the sanitized body surfaces and body openings, especially if there has been body surface contamination with radioisotopes, natural or artificial.

(3) The injection and drainage protocol should include the following recommended guidelines, as discussed previously:

(a) Multipoint or multi-site injection and drainage.

(b) Intermittent (restricted) drainage.

(c) The use of a minimum of a 2.0% v/v concentration of the formaldehyde preservative/disinfectant solution for arterial injection or equivalent concentration of a non-formaldehyde preservative/disinfectant.

(d) The chemical treatment of the primary body cavities (thoracic, abdominal, and pelvic) with one-pint (16 fluid ounces) of concentrated cavity chemical per cavity or a minimum of three-pints per adult case.

B. The Embalmer:

(1) Always wear an outer, protective garment, preferably one which is impervious to the penetration of liquids and aerosols, such as a rubber or plastic wrap-around apron or gown.

(2) Always wear rubber or plastic gloves during the hnadling of human remains. The gloves should be discarded after each use, especially in cases of known reportable infectious diseases or in cases of gas gangrene.

(3) Wear protective head and shoe coverings, especially in the handling of autopsied cases and/or infectious disease cases.

(4) Wear a protective oral-nasal mask designed to prevent the inhalation of infectious or hazardous chemical particulates.

(5) Rinse gloved hands in appropriate dilution of chemical disinfectant periodically during the preparation of the remains to minimize transfer of contaminants to skin surfaces of the embalmer.

(6) Concurrently immerse instruments in separate pan or container of chemical disinfectant between actual uses during the preparation of the remains.

C. Air Handling in the Preparation Room:

(1) An efficient air exhaust system or air purification system is highly recommended to be in operation during the preparation of the human remains to maintain a non-hazardous level of airborne contamination. Respirable contaminants usually include those microbial agents measuring 5.0 to 100 microns in diameter.

(2) The airhandling system should also prevent the accumulation of formaldehyde vapor and/or paraformaldehyde aerosol concentrations in the preparation room environment by creating a minimum of six air exchanges per hours, preferably more. Formaldehyde concentrations exceeding 3.0 ppm constitute a potential health hazard to the embalmer.[7]

4. TERMINAL DISINFECTION AND DECONTAMINATION:

A. The Preparation Room:

(1) Cleanse and disinfect all instruments, the operating table surfaces, aspirating equipment and appurtenances, preparation room floor and wall surfaces, sinks water faucet handles, door knobs, waste receptacles, etc. In cases of known or confirmed reportable infectious disease, contagious or communicable, and/or in cases of gas gangrene, all instruments, including trocars and drainage tubes, should

either be steam sterilized (autoclaved) or immersed in a suitable cold chemical sterilant, e.g. 2.0 acid (Sonacide) or alkalinized (Cidex) glutaraldehyde, Bard-Parker solution (8.0% v/v formaldehyde in 70% ethanol or isopropanol): 400-500 ppm of an iodophor, 5000 ppm of hypochlorite solution, or other suitable disinfectant.

(2) Incinerate all incinerable fabric or plastic body coverings, e.g. bandages, dressing, sheets, towels, or other patient-associated items placed in direct contact with the remains.

B. The Hearse/Service Vehicle(s):

(1) Cleanse and sanitize the mortuary cot or tray. Use freshly cleansed and sanitized cot or tray covers on each case to be transferred.

(2) Cleanse and sanitize the internal surfaces of the hearse/service vehicle following each transfer of remains.

C. The Embalmer(s):

(1) Remove and dispose of gloves. Gloves are a single-use accessory. They should not be considered a re-usable item. Scrub hands and forearms with a suitable medicated liquid soap or 200 ppm of an iodophor or other suitable germicide.

(2) Shower-cleanse entire body surface, including the germicidal shampooing of the hair.

5. GENERAL GUIDELINES:

A. Vacuum Breakers:

The potential hazards associated with biologic and chemical contaminants encountered within the preparation room

environment must not be allowed to enter any network of plumbing cross-connections within the preparation room. Vacuum breakers must be installed in all involved water lines to prevent the back-siphoning of contaminated liquids into potable water supply lines.

B. Physical Examination:

Funeral Service personnel should receive a thorough medical/physical examination annually, preferably bi-annually.

C. Immunization:

Funeral Service personnel should adhere to an effective program of preventive/prophylactic immunization schedules. All embalmers should follow the recommended booster periodicity for typhoid fever, tetanus, influenza, etc.

D. Mantoux Skin Test for Tuberculosis:

All embalmers should be skin tested for tuberculosis on an annual basis until they convert from skin test negative to skin test positive. At the time of conversion, a chest X-ray should be performed. Thereafter, in the absence of symptoms, chest X-rays should be performed every two to three years.

E. Rubella Vaccination:

All embalmers, male or female, should be vaccinated against German Measles (Rubella) if it is known that they do not possess protective antibody levels against the virus. Women of pregnancy age may sustain a teratogenic effect from the virus during the first trimester of pregnancy; males may transmit the virus to susceptible females.

F. Hepatitis B (Serum Hepatitis) Vaccination (Heptovax):

All embalmers not immune to Hepatitis B should be vaccinated against same. Hepatitis B may be transmitted to the embalmer via any body fluid originating from the deceased victim of the viral disease. Embalmers sustaining accidental skin penetration during the preparation of an Hepatitis A (infectious hepatitis) or Hepatitis B (serum hepatitis) victim and are known to be susceptible, should promptly seek the administration of immunoglobulin (specific antibody preparations against the viral diseases).

G. Administration of prophylactic antibiotics:

Embalmers involved in the preparation of known cases of bacterial meningitis (meningococcic meningitis) should effect contact with a physician, clinic, or emergency center for the administration of preventive/prophylactic antibiotic(s).

H. Oral-Nasal Masks:

All embalmers involved in the preparations of known victims of systemic fungal infections, e.g. histoplasmosis, coccidioidomycosis, blastomycosis, or known victims of Hepatitis B, AIDS, viral encephalitis, bacterial meningitis, etc. should always take the precaution of wearing an oral-nasal mask designed to entrap biologic particulates of minute diameters, 0.1 micron or greater.

At the present time, nearly 90% of clinical infections occur in four body sites: urinary tract, skin and subcutaneous (wound), upper respiratory tract, and the vascular system (bacteremia/septicemia). There is an increasing number of

immunocompromised hosts whose susceptibility to infection may be two to three times greater than that in the average member of the community. The majority of infections originate from endogenous sources, hands, nasopharyngeal secretions, fomites, including the contaminated surfaces of preparation room equipment, are a few of the sources of infectious agents. Airborne transmission may involve the etiolotic agents of such infectious diseases as tuberculosis, whooping cough, measles, legionnaires disease, chicken pox, etc. Newly identified and recognized infectious agents and the mode(s) of transmission of same can be anticipated. As the numbers of immunocompromised hosts, the "walking wounded," increase, the clincial presentations of infections and the causative agents involved will change. There will always be a constantly changing cast of microbial "actors" with new and different epidemiologic costumery.[8]

The best defense against the emergence of new pathogens and the environmental selection for increased microbial resistance to inactivation is to effectively interrupt the direct and indirect modes of transmission within the "at risk" environment.

The public health guidelines that should be a part of every funeral home's personal health policies should be accompanied by a set of minimum standards for the preparation of human remains for in-state viewing. The implementation of the following standards together with the previously listed public health guidelines will more consistently assure the public health quality of our professional practices.

RECOMMENDED MINIMUM STANDARDS FOR THE EMBALMING OF HUMAN REMAINS[9]

The voluntary adoption and implementation of minimum professional practice standards in embalming is a necessary first step in the provision of quality control and quality assurance in the preservation and disinfection of human remains. This is especially important in terms of providing more precise definitions of the public health values of embalming. It is to be highly recommended that, when embalming is performed, a measure of uniformity of minimum professional skills be employed by all practitioners.

The experimental studies completed to date confirm that embalming is effective when the commercially available embalming chemicals are used in proper concentrations, in adequate total volumes, and are administered under conditions of proper techniques.[10, 11] The following professional profile of minimum standards of embalming practices is based on laboratory evaluations and post-embalming observations.

I. MULTIPLE SITE INJECTON AND DRAINAGE: Multiple site (two or more) injection and drainage methodology assures a more consistent distribution of the disinfection and preservation chemical solutions to all receptive tissue areas, both deep and superficial. Maximal chemical perfusion of receptive tissues is necessary to assure the long-term effectiveness of embalming. Further, this more consistently provides the public health protection expected of effective embalming and eliminates any environmental impact hazards in cases of earth interment.

II. RATE OF FLOW OF ARTERIAL INJECTION CHEMICALS: A moderate rate of flow, 12 to 15 minutes per gallon of injection solution, and sufficient injection pressure to maintain the moderate rate of flow, 2 to 10 p.s.i., are companion recommendations for the assurance of distribution and diffusion of the arterial injection chemicals.

III. USE OF INTERMITTENT (RESTRICTED) DRAINAGE: This is one of the most effective methods of assuring adequate distribution of the arterial injection solution. It is especially recommended after surface discolorations have been removed, e.g. after injecting the first gallon of arterial injection solution. If proper drainage has been accomplished, this technique will not impede further drainage. Solutions under pressure tend to follow routes of least resistance. This method should produce maximum preservation and disinfection effects from the injected chemicals.

IV. TOTAL VOLUME OF ARTERIAL INJECTION SOLUTION EMPLOYED: Consideration should be given to employing a minimum of three to four gallons of arterial injection solution in the average adult case, weighing from 125 to 175 pounds. Injection and drainage techniques may involve the removal of four to six quarts of blood and body fluids. To properly restore the loss of the body fluids and overcome the loss of preservative and disinfecting arterial injection chemicals, especially in the use of continuous drainage, it is necessary to employ the total injection solution volume of three to four gallons, e.g. one gallon

per 50 pounds of body weight, exclusive of primary injection solution(s).

V. THE USE OF SUPPLEMENTAL CHEMICALS: The enhancement of the distribution of the injected disinfectant/preservative solution may often require the use of supplemental chemicals, e.g. modifying and surface active additives, primary injection chemicals, water conditioners, etc. The use of such additives may increase the efficacy of injection solution distribution and drainage.

VI. CONCENTRATION (PERCENT) OF PRESERVATIVE/DISINFECTANT IN THE INJECTION SOLUTION: Data from extensive laboratory evaluations indicate that the percent of the formaldehyde preservative/disinfectant concentration in the arterial injection solution should never be less than 2.0% v/v. Formaldehyde in concentrations ranging from 2.3 to 3.0% v/v inactivated existing bacterial populations in excess of 95%. It is known that formaldehyde concentrations less than 2.0 to 3.0%, e.g. 1.0% v/v, may produce tissue fixation, but may not reduce microbial densities (microbicidal effect) by more than 50%. Significant reductions should be a minimum of 70% or greater. Formaldehyde is classified as a "high level" disinfectant when used in concentrations of 3.0 to 8.0% v/v. The recommended use of a 2.0% v/v concentration of formaldehyde in arterial injection solutions, and preferably a 3.0% v/v concentration, is based on investigative documentation.

VII. THE USE OF CAVITY TREATMENT CHEMICALS: Thorough and adequate treatment of the thoracic, abdominal, and pelvic cavities should include the aspiration of liquids and semi-solids that can be withdrawn by vacuum from the non-autopsied remains and the injection of one pint (16-ounces) of concentrated cavity chemical into each of the major cavities. In cases of body weights exceeding 200 pounds, it is recommended that the embalmer use one pint of concentrated cavity chemical per 50 pounds of body weight. The cavity treatment techniques employed should assure maximal tissue contact as a result of pre-treatment trocar separation and perforation of all organs in each of the three primary body cavities.

These minimum standards of performance include, of course, all disinfection and decontamination procedures that are important to the public health protection of the embalming practitioner, e.g. concurrent disinfection of the remains, gloved hands of the embalmer, and all adjacent contact surfaces and the terminal disinfection of these and other direct and indirect contact sites in the preparation room. All items of attire, soiled clothing and/or health care gowns or pajamas, and post-surgical or skin and subcutaneous wound dressings, should be incinerated or immersed in a disinfectant solution, or steam sterilized (autoclaved). The body surfaces of the remains should always be cleansed and sanitized and the body orifices treated with an appropriate disinfectant and packed with cotton previously saturated with the same disinfectant. Contaminated disposable items may be placed

in a waste receptacle lined with an impervious, autoclavable plastic bag. The plastic bag with contaminated contents should not be transferred from the preparation room to a site of disposition until steam sterilization has been completed.

A professional framework of practical and reasonable minimum standards for the practice of embalming will contribute significantly to the accomplishment of our public health goals and obligations.

The recommended set of minimum standards for the preservation and disinfection of human remains should, when implemented, enhance the distribution of the arterial injection chemicals throughout the entire cardiovascular system, e.g. multisite injection and drainage, restricted drainage, adequate total volume of injection solution, the use of supplemental chemicals, etc. The structural mediator of the delivery of the injection chemicals to receptive tissue sites is the fundamental and simplest division of the blood vascular system, the capillary. In this sense, arterial embalming might be referred to as "capillary embalming." These simple endothelial tubes with an average diameter of 7 to 9 microns connect the terminal arterioles and the venules. The surface area of the capillary network in the human body approaches 6000 square meters or 64,585 square feet.[12] This vast membrane of over 1.5 acres is the permeable barrier which controls the delivery of the preserving and disinfecting chemicals to the deep and superficial body tissues. The closed circulatory system of man normally contains 5 to 6 quarts of blood, 8.0% of the body

weight, 85% of which is contained within the capillaries. Obviously, the thorough perfusion of soft tissue sites with the appropriate concentrations of injection chemicals involves far more than the filling of the aorta and the primary branches of the aorta. The long-term preservation and disinfection of human remains requires the embalmer to utilize such standards of technique to effectively transform routine "injection" into "capillary embalming."

Most embalmers, pathologists, and epidemiologists readily agree that human remains constitute an "at risk" reservoir of infectious agents pose a continuing occupational health hazard. While the public health significance of embalming has been adequately documented, recorded public health statistics confirming the high incidence of infections among embalmers are minimal. The lack of such confirmatory vital statistics data has, unfortunately, discouraged appropriate recognition of embalming as a public health function and the "at risk" role of the embalmer by public health agencies, local, state, and national. The increasing incidence of herpes simplex virus, hepatitis B virus, and the AIDS virus infections has caused many public agencies to re-evaluate the potential infectious disease risks assumed by morticians, e.g., the Office of Biosafety, Centers for Disease Control, Atlanta, Georgia.

Morticians and pathologists are often unknowingly exposed to hepatitis B because the virus may remain dormant in carriers. Further, the hepatitis B virus in serum or plasma may be transmitted indirectly via inanimate environmental

surfaces.[13] The authors are aware of one case involving a service embalmer who was hospitalized for hepatitis B and died. The postmortem diagnosis was infectious jaundice or leptospirosis, a spirochetal infection against which there are effective therapeutic antibiotics. In this case, misdiagnosis needlessly took the life of an embalmer who sustained a needle penetration of the skin during embalming.

Although the incidence of tuberculosis has declined in the United States, a study of 129 cases in which tuberculosis was considered to be the primary cause of death indicated that diagnosis did not occur until autopsy in 33 percent of the cases. Such retrospective diagnoses tend to underline the potential for the transmission of infectious disease to the embalmer.

A Sanitation Survey involving over 2000 responding mortuary science licensees was conducted by the Champion Chemical Company in 1975.[14] Over 18.0% of the respondents indicated that they had sustained <u>one or more</u> serious infections during their career in the funeral service profession. Tuberculosis (14.0%), viral upper respiratory infections (44.0%), infectious hepatitis (13.0%), fungal infections (19.0%), bacterial septicemias (17.0%), and bacterial wound infections (14.0%) were the most frequently reported funeral service-associated infections. The incidence of infectious disease among funeral service licensees was indicated to be two to three times higher than the incidence in the general population. The incidence of tuberculosis, infectious hepatitis, and fungal infections among pathologists is approximately 16.0%,

slightly below the statistic associated with funeral service practitioners.

The following illustration, "Breaking the Cycle of Transmission," 'igure I) summarizes the basis for the protective measures recommended in the section entitled, "Public Health Guidelines." Methods of chemical and physical decontamination must be employed if we are to eliminate "reservoirs" of infectious agents and prepare preparation room surfaces, instruments, and equipment hygienically safe for reuse and the re-exposure of the embalmer-host.

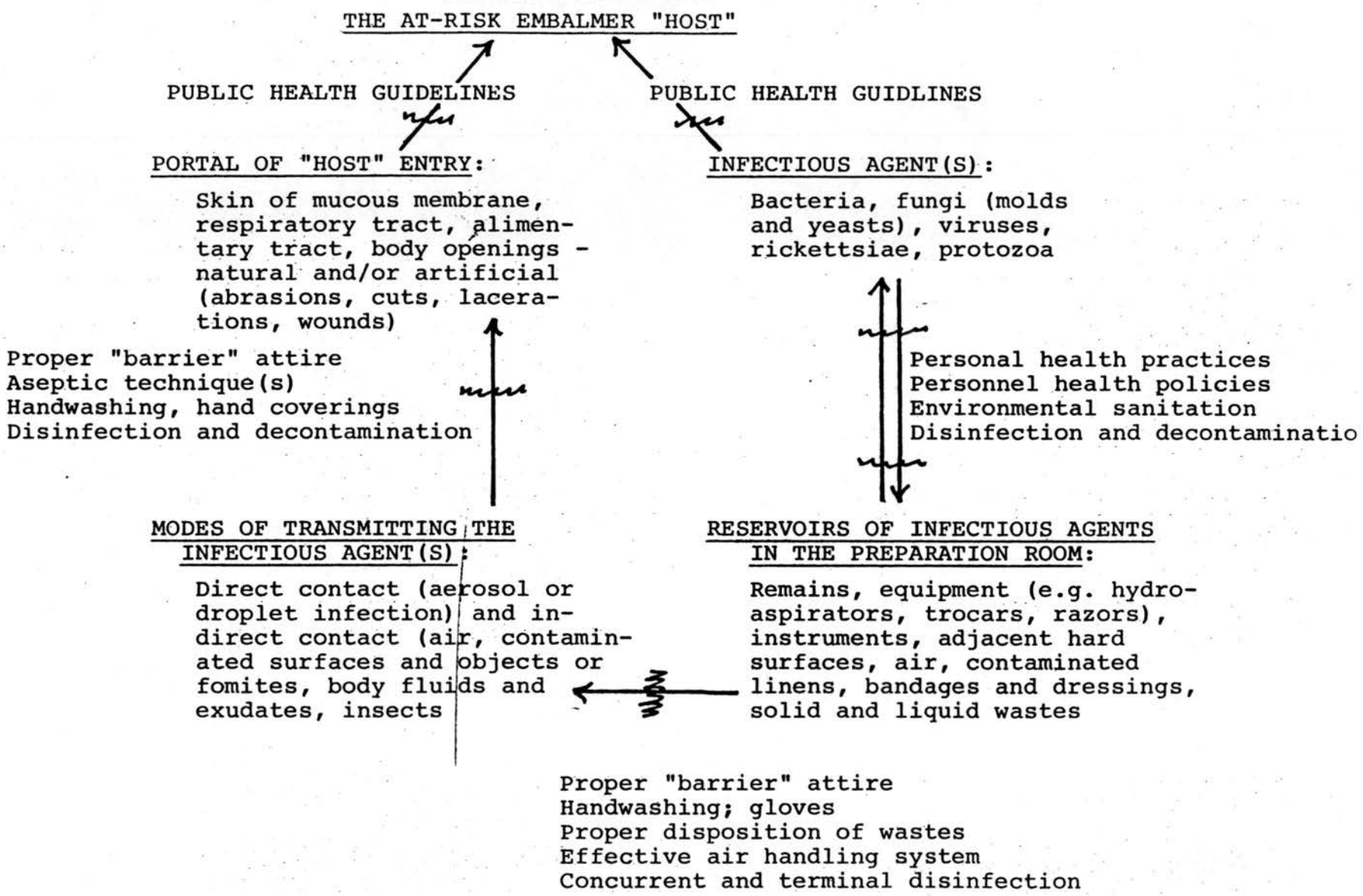
Chemical and physical decontamination is a very important weapon in the fight against infectious diseases, especially in environments exposed to a multitude of actual and potential pathogens. It should be emphasized that chemical and physical disinfection is no substitute for good housekeeping and practical cleaning procedures.

The following terms are applicable to the function of environmental control, utilizing methods of disinfection and sterilization:[15]

1. Asepsis - A condition free of germs.
2. Bactericidal - An agent that destroys bacteria.
3. Bacteriostatic - Inhibition of bacterial agents. No destruction of viability is implied.
4. Cleaning - The removal of infectious agents by scrubbing and washing, as with hot water, soap, or suitable detergent.
5. Disinfectant - An agent, usually chemical, applied to inanimate objects/surfaces for the purpose of destroying disease-causing microbial agents, but usually not bacterial spores.
6. Germicide - An agent, usually chemical, applied either to inanimate objects/surfaces or living tissues for the purpose of destroying disease-causing microbial agents, but usually not bacterial spores.
7. Sanitizer - An agent, usually chemical, which possesses disinfecting properties when applied to a precleaned object/surface.
8. Sterilization - Total destruction of all living microbial agents.

Concurrent disinfection is the application of disinfection and decontamination measures immediately following contamination. Terminal

FIGURE I: BREAKING THE CYCLE OF TRANSMISSION OF INFECTIOUS AGENTS IN THE PREPARATION ROOM



Note: Proper "barrier" attire may include whole body covering, head cover, shoe covers, gloves, and oral-nasal mask.

disinfection is the application of disinfection and decontamination measures following the completion of the preparation of the remains. Both concurrent and terminal disinfection require the applications of physical and chemical methods for the control of microbial contamination. (See Table I)

Three levels of antimicrobial activity are recognized for the proper disinfection of critical, semicritical, and noncritical environments and objects, namely, "high," "intermediate," and "low." [16] As seen in Table II, an essential property of a high-level disinfectant is effectiveness against bacterial spores, e.g., aqueous 2.0% glutaraldehyde, 8.0% formaldehyde solution in 70.0% alcohol, 6.0 to 10.0% stabilized hydrogen peroxide, and ethylene oxide gas. Intermediate-level disinfectants do not necessarily kill large numbers of bacterial spores in a relatively short time, but they do inactivate the tubercle bacillus. These disinfectants are also effective against fungi as well as lipid and nonlipid medium-size and small viruses, e.g., 0.5% iodine, 70.0 to 90.0% ethanol and isopropanol, chlorine compounds (free chlorine as derived from sodium or calcium hypochlorite), and some phenolic ("tamed" phenols) and iodophor-based disinfectants. Low-level disinfectants cannot be relied upon to destroy bacterial spores, the tubercle bacillus, or small nonlipid viruses. These disinfectants may be useful in actual practice because they can rapidly kill vegetative forms of bacteria and fungi as well as medium-size lipid-containing viruses, e.g., quaternary ammonium compounds and mercurials. The disinfecting levels of iodophors ("tamed" iodines) and phenolic compounds may be classified as intermediate or low depending the concentrations employed. (See Table III)

Noncritical items within the preparation room environment may include walls, floors, and furnishings. Many embalmers rely on low-level

TABLE I:

CHEMICAL AND PHYSICAL METHODS FOR CONTROLLING MICROBIAL CONTAMINATION*

METHOD OF DECONTAMINATION	TEMPERATURE REQUIREMENT	MINIMUM INTERVAL OF EXPOSURE IN MINUTES (0 2 10 12 15 20 90 120 150 180)
STERILIZATION: COMPLETE DESTRUCTION OF ALL FORMS OF MICROBIAL LIFE		
	285°F. (140°C.)	(Instant)
SATURATED STEAM UNDER PRESSURE ..... (AUTOCLAVING)	270°F. (132°C.)	
	250°F. (121°C.)	30-minutes for hepatitis viruses
ETHYLENE OXIDE GAS	130°F. (54°C.)	2 to 12 hours
HOT AIR, e.g. OVEN	320°F. (160°C.)	2 hours or more or more
CHEMICAL SPORICIDE SOLUTION ..... e.g. 8.0% Formaldehyde plus 70% isopropanol, glutaraldehyde**	Room Temperature	3 to 12 hours **recommended for HIGH LEVEL disinfection or more
DISINFECTION: KILLING OF DISEASE-PRODUCING MICROBIAL AGENTS, BUT NOT RESISTANT SPORES		
BOILING WATER OR FREE ..... FLOWING STEAM	212°F. (100°C.)	or more 30 minutes for hepatitis viruses
CHEMICAL GERMICIDE SOLUTIONS ..... e.g. iodophors, phenylphenols, quaternary ammonium compounds	Room Temperature	or more
SANITIZATION		
CHEMICALS AIDED BY PHYSICAL ..... METHODS OF SOIL REMOVAL	Maximum of 200°F. (93°C.)	

*Modified from chart copyrighted in 1967, Research and Development Section, American Sterilizer Co., Erie, Pa.

disinfectants for application to such surfaces, used either alone or in addition to cleansing with detergent systems.

Blood, mucous, or feces, when present on items to be disinfected, may contribute to the failure of a given disinfectant or sterilization procedure. The organic contamination may occlude microbial agents and prevent penetration of the disinfection chemical(s), or the organic material may directly and rapidly inactivate certain disinfection chemicals, e.g., chlorine-and iodine-based disinfectants and quaternary ammonium compounds. This effect is correspondingly greater with weak concentrations and with low-level disinfectants than with strong concentrations and high-level disinfectants. However, the possible effect emphasizes the necessity of thoroughly cleansing a contaminated object, e.g., trocar, hydroaspirator, forceps, etc., prior to chemical disinfection. In fact, physical cleaning may be the most important step in a disinfection process, which, by definition, does not include the possible "over-kill" factor of a sterilization procedure.

TABLE II. LEVELS OF DISINFECTION ACTIVITY[16]

LEVEL OF ACTIVITY	BACTERIA			FUNGI	VIRUSES	
	Vegetative	Tubercle bacillus	Spores		Lipid and medium-size	Nonlipid and small
HIGH	+	+	+	+	+	+
INTERMEDIATE	+	+	-	+	+	+
LOW	+	-	-	±	+	-

(+) = Positive microbicidal effect; (-) = Negative microbicidal effect

TABLE III. ACTIVITY LEVELS OF SELECTED MICROBICIDES[16]
TRADE NAMES OF CERTAIN CLASSES OF MICROBICIDES ARE INDICATED*

LIQUID MICROBICIDE*	USE-CONCENTRATION	ACTIVITY LEVEL
Glutaraldehyde, aqueous, e.g. Cidex, Sonacide, Sporicidin	2.0%	HIGH
Formaldehyde + alcohol	8.0% + 70.0%	HIGH
Stabilized hydrogen peroxide	6.0 to 10.0%	HIGH
Formaldehyde, aqueous	3.0 to 8.0%	HIGH TO INTERMEDIA
Iodophors, e.g., Betadine, Wescodyne, HiSine, Iosan	75 to 200 ppm	INTERMEDIATE
Iodine + alcohol	0.5% + 70.0%	INTERMEDIATE
Chlorine compounds, e.g., Sodium hypochlorite as in chlorine bleach	1000 to 5000 ppm	INTERMEDIATE
Phenolic compounds, aqueous, e.g., Amphyl, Staphene, O-Syle	0.5 to 3.0%	INTERMEDIATE TO LO
Quaternary Ammonium compounds, e.g. Phemoral, Zepharin chloride, Diaparine chloride	0.1 to 0.2% aqueous	LOW
Mercurial compounds, organic and inorganic, e.g., Merthiolate, Mercurochrome, Metaphen	0.1 to 0.2%	LOW

The chemical agents listed above are categorized by type rather than by specific formulations. Whenever there is a choice between "cold" chemical sterilization (high-level activity) and sterilization by heat (autoclaving), the latter is preferable.

Specific recommendations, grouped by types of objects to be disinfected or sterilized, are presented in the following table, Table IV.[17] The numbers designate the specific procedures that are acceptable in each situation; the key to the numbers is given below the table. Exposure times for each situation are included. It should be noted

that certain chemical agents tend to cause some materials to corrode or rust; recommendations for prevention of corrosion are footnoted below the table.

TABLE IV. ACCEPTABLE ANTIMICROBIAL PROCEDURES/EXPOSURE INTERVALS

OBJECTS	Vegetative Bacteria and Fungi Influenza Viruses Disinfection	Tubercle Bacilli Enteroviruses except Hepatitis Viruses Vegetative Bacteria and Fungi Influenza Viruses Disinfection	Bacterial and Fungal Spores Hepatitis Viruses Tubercle Bacilli Enteroviruses Vegetative Bacteria and Fungi Influenza Viruses Sterilization
Smooth, hard-surface objects	A–10 min. D– 5 min. E–10 min. F–10 min. H–10 min. L– 5 min. M– 5 min.	B–10 min. D–10 min. G–10 min. H–10 min. L–10 min. M–10 min.	D–18 hrs. J K L– 9 hrs. M–10 hrs.
Rubber tubing, rubber catheters	E–10 min. F–10 min. H–10 min.	G–10 min. H–10 min.	J* K
Polyethylene tubing, polyethylene catheters	A–10 min. E–10 min. F–10 min. H–10 min.	B–10 min. G–10 min. H–10 min.	D–18 hrs. J* K L– 9 hrs. M–10 hrs.
Lensed instruments	E–10 min. F–10 min. H–10 min. K M–10 min.	K M–10 min.	K
Hypodermic needles	Sterilization Only	Sterilization Only	J
Thermometers**	C–10 min. K	C–10 min. K	D–18 hrs. L– 9 hrs. M–10 hrs.
Hinged instruments	A–20 min. D–10 min. E–20 min. F–20 min. H–20 min. L–10 min. M–10 min.	B–30 min. D–20 min. G–30 min. H–30 min. L–20 min. M–20 min.	J K L– 9 hrs. M–10 hrs.
Floors, furniture, other appropriate room surfaces	E– 5 min. F– 5 min. H– 5 min. I– 5 min.	G– 5 min. H– 5 min.	Not necessary or practical

* Investigate thermostability when indicated.

** must be thoroughly wiped, preferably with tincture of soap, before disinfection or sterilization. Alcohol-iodine solution will remove markings on poor-grade thermometers.

KEY

A. isopropyl alcohol (70-90%) plus 0.2% sodium nitrite to prevent corrosion
B. ethyl alcohol (70-90%)
C. isopropyl or ethyl alcohol plus 0.2% iodine
D. formaldehyde (8%)—alcohol solution plus 0.2% sodium nitrite to prevent corrosion
E. quarternary ammonium solutions (1:500 aq.) plus 0.2% sodium nitrite to prevent corrosion
F. iodophor—75 ppm available iodine plus 0.2% sodium nitrite to prevent corrosion
G. iodophor—450 ppm available iodine plus 0.2% sodium nitrite to prevent corrosion
H. phenolic solutions (2% aq.) plus 0.5% sodium bicarbonate to prevent corrosion
I. sodium hypochlorite (1:500 aq.—approx. 100 ppm)*
J. heat sterilization } see manufacturers' recommendations
K. ethylene oxide gas } or technical literature
L. aqueous formalin (40%)
M. activated glutaraldehyde (2% aq.)

Note: 1000 ppm of available chlorine is recommended for inactivation of Hepatitis B virus and 5000 ppm for the inactivation of HTLV III (AIDS) virus.

The authors sincerely hope that this information will help current and future practitioners of mortuary science to better understand the needs for the practice of public health protection measures. We dedicate this chapter to their future in health and well-being.

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DEPARTMENT OF HEALTH ADOPTED RULES GOVERNING COMMUNICABLE DISEASES:
Effective June 3, 1985

4605.7040 DISEASE AND REPORTS

Acquired Immune Deficiency Syndrome (AIDS)
Amebiasis (Entamoeba histolytica)
Anthrax* (Bacillus anthracis)
Babesiosis (Babesia sp.)
Blastomycosis (Blastomyces dermatitidis)
Botulism* (Clostridium botulinum)
Brucellosis (Brucella sp.)
Campylobacteriosis (Campylobacter sp.)
Chancroid (Haemophilus ducreyi)
Chlamydia trachmatis Infections (nonspecific urethritis, cervicitis, salpingitis, neonatal conjunctivitis, pneumonia, and lymphogranuloma venereum)
Cholera* (Vibrio cholerae)
Diphtheria (Corynebacterium diphtheriae)
Diphyllobothrium latum infection
Encephalitis (caused by infectious agents)
Echinococcosis (Echinococcus sp.)
Giardiasis (Giardia lamblia)
Gonorrhea infections (including: Gonococcal salpingitis, ophthalmia neonatorum, Penicillin resistant Neisseria gonorrhea infections)
Haemophilus influenzae disease (only invasive disease including epiglottitis, cellulitis, bacteremia, and meningitis)
Hepatitis (viral types A, B, and non-A, non-B)
Herpes simplex infections (neonatal, less than 30 days of age, disease only)
Histoplasmosis (Histoplasma capsulatum)
Influenza (unusual case incidence or laboratory confirmed cases)
Lead (poisoning and undue absorption)
Legionellosis (Legionella sp.)
Leprosy (Mycobacterium leprae)
Leptospirosis (Leptospira interrogans)
Lyme Disease (Borellia burgdorferi)
Measles (Rubeola)*
Malaria
Meningitis (caused by all types of bacterial, viral, or fungal angents)
Meningococcemia (Neisseria meningiditis)
Mumps*
Mycobacterioses (symptomatic cases only; exclusive of tuberculosis and leprosy)
Pertussis (Bordetella pertussis)
Plague (Yersinia pestis)
Poliomyelitis*
Psittacosis (Chlamydia psittaci)
Q Fever (Coxiella burnetii)
Rabies (animal and human cases and suspects)*
Reye Syndrome
Rheumatic Fever (cases meeting the Jones Criteria only)
Rubella and Congenital Rubella Syndrome
Rocky Mountain Spotted Fever (Rickettsia sp.)
Salmonellosis, including typhoid (Salmonella sp.)
Shigellosis (Shigella sp.)
Staphylococcal disease (Staphylococcus aureus outbreaks only)
Streptococcal disease (only Streptococcus agalactiae (Group B) neonatal, less than 30 days of age, disease)
Syphilis* (Treponema pallidum)

Tetanus (*Clostridium tetani*)
Toxic Shock Syndrome
Trichinosis (*Trichinella spiralis*)
Tuberculosis (*Mycobacterium tuberculosis*)
Tularemia (*Francisella tularensis*)
Typhus (*Rickettsia prowazeki* and R. *typhus*)
Yellow Fever
Yersiniosis (*Yersinia* sp.)

V

PLUMBING CODE

MINNESOTA RULES
Chapter 4715

Extract From
Minnesota Rules 1983
as in effect on July 31, 1983

MINNESOTA STATUTES
Sections 326.01, 326.37 to 326.45, and 326.57 to 326.66

Extract From
Minnesota Statutes
as in effect on January 1, 1984

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4715.1930 TOXIC MATERIALS.

Piping conveying potable water shall be constructed of nontoxic material.

No material or substances that could produce either toxic conditions, taste, odor, or discoloration in a potable water system shall be introduced into or used in such systems.

The interior surface of a potable water tank shall not be lined, painted, or repaired with any material which will affect either the taste, odor, color, or potability of the water supply when the tank is placed in or returned to service.

Piping which has been used for any other purpose then conveying potable water shall not be used for conveying potable water.

Statutory Authority: *MS s 326.37 to 326.45*

4715.1940 POTABLE WATER CONNECTIONS TO HEATING OR COOLING SYSTEMS.

Potable water connections to boiler feed water systems, cooling systems, or other liquid systems, in which water conditioning chemicals may be introduced shall be made through an air gap or provided with an approved backflow preventer located in the potable water line before the point where such chemicals may be introduced. Where a system is filled with an antifreeze or toxic solution a permanent tag will be placed in plain view stating "Caution, this system contains antifreeze/toxic solution." There shall be no permanent direct connection between this system and the potable water supply to the building.

Statutory Authority: *MS s 326.37 to 326.45*

4715.1950 PROHIBITED CONNECTIONS TO FIXTURES AND EQUIPMENT.

Connections to the potable water supply system for the following shall be protected against backflow:

A. bidets;

B. operating, dissection, embalming, and mortuary tables or similar equipment; in such installation the hose used for water supply shall be equipped with a vacuum breaker installed at least six feet, six inches above the floor;

C. pumps for nonpotable water, chemicals, or other substances; priming connections may be made only through an air gap;

D. building drainage, sewer, or vent systems; and

E. any other fixture of similar hazard.

Statutory Authority: *MS s 326.37 to 326.45*

4715.1960 REFRIGERATING UNIT CONDENSERS AND COOLING JACKETS.

Except where potable water provided for a refrigerator condenser or cooling jacket is entirely outside the piping or tank containing a toxic refrigerant, with two separate thicknesses of metal separating the refrigerant from the potable water supply, inlet connection shall be provided with an approved check valve. Also, adjacent to and at the outlet side of the check valve, an approved pressure relief valve set to relieve at 5 psi above the maximum water pressure at the point of installation shall be provided if the refrigeration units contain more than 20 pounds of refrigerants.

Statutory Authority: *MS s 326.37 to 326.45*

VII

federal register

Tuesday
July 9, 1985



Part II

Federal Trade Commission

16 CFR Part 453

Trade Regulation Rule; Funeral Industry Practices; Staff Compliance Guidelines

Illustration #3: You have a traditional funeral practice in that you sell various funeral goods, prepare remains and arrange for final dispositions. A consumer wants you to arrange a funeral but is providing his own casket and does not want to purchase any other funeral goods from you. Is this transaction covered by the Rule even though you are not selling funeral goods to this particular consumer?

Yes. If you sell or offer to sell funeral goods and funeral services you must comply with the Rule's provisions for every consumer, even for those consumers who wish to purchase only goods or only services.

Illustration #4: You have a traditional funeral practice in that you sell various funeral goods, prepare remains and arrange for final dispositions. Rather than maintaining your own casket selection room, you use a manufacturer's showroom to sell caskets. Are you covered by the Rule?

Yes. You are selling or offering to sell funeral goods and funeral services and therefore must comply with the Rule's provisions. This is true even though you are utilizing a manufacturer's showroom to sell caskets. Although the casket manufacturer is not covered by the Rule, as discussed in Illustration No. 5 below, you still meet the definition of a funeral provider and must comply with the Rule.

Illustration #5: You are a casket salesman or a person selling caskets or coffins or kits to make caskets. Are you covered by the Rule?

No. Casket salesmen and others, if they only sell caskets, coffins or casket kits and do not sell or offer to sell services relating to disposition, are not covered under the Rule. They are only selling or offering to sell funeral goods. They must also sell or offer to sell funeral services in order to be covered.

Illustration #6: You operate a cemetery and want to know if you must comply with the Rule. Your cemetery sells outer burial containers and grave liners. Are you covered by the Rule?

No. Under the Rule's definitions, although you sell funeral goods, you would *not* be considered a funeral provider since you only arrange or conduct final dispositions and do not prepare remains for final dispositions. Thus, a cemetery generally only performs one of the functions included in "funeral services." It would have to provide *both* in order to be covered under the Rule.

Illustration #7: Is a cemetery which also operates a funeral home covered under the Rule?

Yes. All funeral providers are covered by the Rule, including those which are operated by a cemetery. As long as you provide funeral goods and services, you must comply with the Rule's requirements. Cemetery/mortuary combinations do not have to comply with the Rule, however, when consumers inquire solely in person about cemetery goods from the cemetery and do not inquire about funeral arrangements or the prices of funeral goods and services.

Illustration #8: You operate a direct disposition company which arranges for direct cremations and sells urns for cremated remains. Are you covered by the Rule?

Yes. In this situation, the Rule would cover the direct disposition company. The company is selling funeral goods (i.e., urns) and provides funeral services in that it cares for and prepares the bodies for the direct cremation *and* arranges the final disposition.

Illustration #9: Same situation as above except that your direct disposition company does not sell urns, alternative containers or any other funeral goods. Are you still covered?

No. In this situation, the direct disposition company would not be covered since it provides *only* mortuary and disposition services. To be covered by the Rule, you must provide both funeral goods *and* funeral services.

Illustration #10: Are crematories which sell urns and provide services to care for and prepare human bodies for final disposition covered by the Rule?

Yes. In this situation the crematory meets the definition of a funeral provider. It sells funeral goods and conducts the disposition, thereby satisfying the supervisory prong of the definition of a funeral provider. In addition, the crematory in this illustration provides those services used to care for and prepare human bodies for final disposition. However, if the crematory did not provide services to care for and prepare human bodies for final disposition, it would not be covered by the Rule. In the case of a crematory, final disposition would be the cremation.

B. Pre-Need Contracts Negotiated After the Effective Date of Rule

The Rule's coverage does extend to funeral providers who sell pre-need contracts after the effective date of the Rule. That means that you must comply with all the relevant portions of the Rule when you discuss pre-need arrangements with consumers.

Illustration #1: You operate a traditional funeral home. After the Rule became effective, a family enters your establishment to pre-plan their funeral arrangements. Does the Rule apply?

Yes. The Rule applies in both pre-need and at-need circumstances. Therefore, you must comply with all of the relevant portions of the Rule when you discuss funeral arrangements.

Illustration #2: Same circumstances as above, but you sell pre-need contracts door to door, rather than solely in your establishment. Does the Rule apply?

Yes. The Rule requires funeral providers to comply whenever consumers inquire about funeral goods and services. Thus, the obligation of a funeral provider to comply with the Rule is not limited to discussions within the funeral home. If you visit a consumer, knowing that you are going to discuss pre-need arrangements, you should be prepared to comply with the Rule.

Illustration #3: You sell pre-need contracts to consumers at their residences on behalf of several funeral homes. You do not yourself, however, operate an establishment that provides funeral goods and services. Does the Rule apply?

Yes. In such a situation, you are an agent of a funeral provider. Therefore, you should be prepared to comply with the Rule.

C. Pre-Need Contracts Negotiated Prior to Effective Date of Rule

The Funeral Rule's coverage does not extend to pre-existing contracts such as pre-need arrangements or burial insurance policies payable in funeral goods and services. Specifically, the portions of the Rule which prohibit certain oral or written misrepresentations do not apply to arrangements made prior to January 1, 1984.[6] In addition, those portions of the Funeral Rule which impose an affirmative obligation upon funeral providers (i.e., price lists, itemization, telephone disclosures, written disclosures) do not apply to arrangements made prior to April 30, 1984.[7]

Illustration #1: Before the Rule became effective, a consumer made a pre-need arrangement with your funeral home for specific funeral goods and services. The consumer dies after the Rule went into effect and the consumer's spouse comes to you to have you provide exactly those goods and services specified in the pre-need

[6] Sections 453.1, 453.3(a)(1)(i), 453.3(a)(2)(i), 453.3(b)(1)(i), 453.3(c)(1)(i), 453.3(d)(1)(i), 453.3(e), 453.3(f)(1)(i), 453.8 and 453.9.

[7] Sections 453.2, 453.3(a)(1)(i), 453.3(a)(2)(ii), 453.3(b)(1)(ii), 453.3(b)(2), 453.3(c)(1)(ii), 453.3(c)(2), 453.3(d)(2), 453.3(f)(1)(ii), 453.3(f)(2), 453.4, 453.5, 453.6, 453.7, and 453.10.

answer questions from information on the price lists. If there are questions which cannnot be properly answered by referrring to the price lists, and a funeral director is not available, it is permissible to take a message and have a funeral director call the consumer later. However, calls requesting price information cannot be made wholly subject to the availability of a funeral director.

Illustration #8: You are a funeral provider who does not use a telephone answering service or machine during non-business hours. At midnight, a consumer dials your business phone number and the call is automatically transferred to your residence. The consumer requests price information in order to pre-plan a funeral. Does the Rule require you to provide price information to callers in such a situation?

No. In such a situation, you may inform the caller that you will provide information about the prices of the funeral goods and services you offer during the normal business hours of your establishment. However, if the caller was inquiring about an *at-need* situation and it is your practice to make funeral arrangements during non-business hours then the Rule would require you to make the required price disclosures at that time.

Illustration #9: You are a funeral provider who uses a telephone answering service. Is that service subject to the Rule and therefore required to make price information available to callers?

No. To the extent that a funeral home uses an independent telephone answering service that simply takes messages, that service is not subject to the provisions of the Rule. Therefore, the service would not be required to provide price information.

Illustration #10: You are a funeral provider who is making arrangements for a funeral with a family which is in your establishment. There is no other employee available. A telephone call is received from a person who is requesting price information. Does the Rule require you to disrupt the arrangements conference to make the required price disclosures at that time?

No. In such a situation, you may inform the caller that you will return the call.

c. Price Disclosures for Caskets: Section 453.2(b)(2)

This provision of the Rule requires funeral providers who sell or offer to sell caskets or alternative containers to prepare a Casket Price List. The list is to be shown to persons who inquire in person about caskets or alternative containers. Thus, you should show consumers the casket price information when the subject is raised. You do not have to force consumers to read the information, but you should allow them to read it if they desire. You do not have to give consumers the list to keep, though you can if you wish. The list must disclose at least the following information:

(1) The name of the funeral provider's place of business;

(2) A caption describing the list as a "casket price list;"

(3) The retail prices of all caskets and alternative containers offered which do not require special ordering;

(4) The effective date of the price list; and

(5) Enough information to identify each offering.

Illustration #1: Do funeral providers have to list any descriptive information about the caskets and alternative containers they offer in addition to the price?

Yes. In addition to prices, funeral providers must supply a certain amount of descriptive information about each casket offered, including alternative containers if direct cremations are offered. Enough information should be provided to enable consumers to identify the specific casket or container. Thus, the price list could include a description of the exterior appearance, including the gauge of metal or type of wood, the exterior trimming, and the type of interior fabrics or other material. Any other information you desire can be disclosed as well, such as a photograph or model number. However, a photograph or model number alone would not be sufficient. The descriptions in the model casket price list should prove helpful to you. (See Attachment 1).

Illustration #2: Does the Rule require that caskets be listed in any particular order?

No. Any arrangement of the caskets that you prefer is allowed. There is no requirement that caskets be listed in any particular order, either least to most expensive or vice versa. However, all disclosures must be made in a clear and conspicuous manner.

Illustration #3: Does the Rule require caskets which must be specially ordered to be listed on the casket price list?

No. This provision only applies to caskets that are usually offered for sale and do not require special ordering. Thus, all caskets which are in stock and available need to be on the list. In addition, the alternative containers offered for direct cremation, if that is a service you provide, need to be listed on the casket price list. However, if caskets or alternative containers must be ordered specially you need not include them on your price list. Special ordering means procuring a casket or container that is not in stock and not part of the regular offerings you provide to your customers.

Illustration #4: Are there a variety of formats allowed to provide casket and alternative container price information to consumers?

Yes. Funeral providers may choose among a variety of different disclosure formats: A separate price list for caskets and alternative containers; notebooks, brochures, or charts; inclusion of this information on the General Price List; or any other format desired, as long as the information required by the Rule is disclosed. The first of the methods is to provide a separate price list for caskets and alternative containers. This must be typewritten or printed and must contain all of the disclosures explained above. The second method is to use notebooks, brochures or charts, which may be more convenient for some funeral providers, particularly those with low inventory levels. Using this method, for example, the funeral provider could prepare a three ring binder with inserts for each type of offering. As the supply of a particular item on the list was exhausted, the page would be removed. Similarly, if new stock arrives, the funeral provider would simply add an insert about that product with the required information. Additionally, some funeral providers may prefer to place the required information onto the General Price List. Finally, funeral providers are permitted to use any other format they desire if the information required by the Rule is disclosed.

Illustration #5: You are a funeral provider who does not have caskets on display in your establishment. The consumer purchases the casket from you. However, you use a local manufacturer's casket showroom. Do you need to prepare a casket price list?

Yes. Funeral providers who use a manufacturer's or supplier's casket showroom in lieu of their own casket selection room must still prepare casket price lists. This does not mean that all of the manufacturer's or supplier's caskets have to be listed. Rather, you should list those caskets which are part of the regular offerings you provide to your customers. In the context of a casket manufacturer's or supplier's showroom, the caskets listed would generally be limited to those in the showroom. However, if the funeral provider elects to offer any or all of the caskets in the warehouse for sale, then these caskets

Illustration #4: Are there a variety of formats allowed to provide outer burial container price information to consumers?

Yes. Funeral providers may choose among a variety of different disclosure formats: A separate price list for outer burial containers; notebooks, brochures, or charts; inclusion of this information on the General Price List; or any other format, as long as the information required by the Rule is disclosed. The first of the three methods is to provide a separate price list for outer burial containers. This must be typed or printed and must contain all of the disclosures explained above. The second method, using notebooks, brochures or charts may be more convenient for some funeral providers. Additionally, some funeral providers may prefer to place the required information onto the General Price List. Finally, funeral providers are permitted to use any other format which discloses the required information.

Illustration #5: Does the Outer Burial Container Price List have to be given to the consumer for their retention?

No. Funeral providers who prepare either a separate container price list or who use notebooks, brochures, or charts merely need to show it to consumers who inquire in person about the offering or prices of containers. If these formats are used, you do not have to give a copy to the consumer to keep. However, if the funeral provider decides to place the required disclosures on the General Price List rather than use a separate list, or notebooks, brochures or charts, the list must be given to consumers for their retention, if they desire.

Illustration #6: You are a funeral provider who does not have outer burial containers on display in your establishment. The consumer purchases the outer burial container from you. However, you use a local manufacturer's showroom for outer burial containers. Do you need to prepare an outer burial container price list?

Yes. Funeral providers who use a mnaufacturer's or supplier's showroom in lieu of their own selection room must still prepare outer burial container price lists. This does not mean that all of the manufacturer's or supplier's outer burial containers have to be listed. Rather, you should list those outer burial containers which are part of the regular offerings that you provide to your customers. In the context of a manufacturer's or supplier's showroom, the items listed would generally be limited to those in the showroom. However, if the funeral provider elects to offer any or all of the outer burial containers in the warehouse for sale, then these offerings must be included in the outer burial container price list. The outer burial container price list should be offered by the funeral provider to the consumer upon beginning discussion of, but in any event before the consumer is shown the offerings. Therefore, if the family and funeral provider begin discussion of outer burial container offerings at the funeral home, the funeral provider must offer the outer burial container price list to the family at that time. If the family and funeral provider do not discuss outer burial container offerings until arrival at the manufacturer's or supplier's showroom, then the outer burial container price list is not required to be offered until that time.

E. Price Disclosures for Funeral Goods and Services: Section 453.2(b)(4)

(1) Itemization

The keystone of the Funeral Rule is the General Price List. It requires that you itemize certain prices for the various funeral goods and services that you offer so that consumers who wish to can compare prices or choose those elements of a funeral that they desire. In order to do this the Rule requires that at a minimum you itemize prices for seventeen specified goods and services, if you offer those goods and services. You may also itemize prices for other goods and services you offer. Note that the Rule does not prohibit you from offering package funerals as long as itemization is an option for consumers who arrange funerals at your establishment. (See Part III G of these guidelines for a discussion of package pricing under the Rule).

A separate price should be assigned to each of the funeral goods and services which you regularly offer to your customers.

The Rule requires, for example, that you itemize the price for use of a hearse, if that is a funeral good you offer to customers. That price does not have to be further broken down into separate costs for loading and unloading, gasoline, washing the hearse, paying the driver, etc.

This example applies to other items as well. As long as you provide a separate price for each basic part of the funeral that you offer to consumers, you will be in compliance.

(2) Information on the General Price List

The General Price List must contain a caption at the top of the page calling it a "General Price List." This caption must also contain the date the prices on the General Price List became effective and the funeral provider's name, address and telephone number. The list must be typed or printed and consumers must be given copies to keep.

There are several distinct parts of the General Price List. The rule provides some flexibility in the manner in which you choose to design the General Price List. The following guides point out those areas of the Rule which allow you flexibility in preparing your price lists.

To assist you in understanding what the Rule requires, sample price lists have been appended to illustrate the Rule provisions. These model forms provide guidance on what the Rule requires and may help to answer questions you may have.

a. *Basic Information.* This first section of the General Price List must contain two general disclosures. The first disclosure is a general statement on itemization which must precede the list of prices. The statement must read:

> The goods or services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.

If you choose to require a separate charge for your services that a consumer may not decline, an additional sentence must be inserted between the second and third sentences of the above disclosure. That extra sentence reads:

> However, any funeral arrangements you select will include a charge for our services.

A second disclosure that must be included on this part of General Price List deals with cash advance items. The required disclosure must read as follows:

> This list does not include prices for certain items that you may ask us to buy for you, such as cemetery or crematory services, flowers, and newspaper notices. The prices for those items will be shown on your bill or that statement describing the funeral goods and services you selected.

The Rules does not prohibit you from charging consumers for arranging these items but if you charge consumers more than the actual cost, or "receive and retain a rebate, commission or trade or volume discount" which is not passed on to the consumer, an additonal sentence must be added at the end of the above disclosure, stating: "We charge you for our services in buying these items." The cash advance disclosures must be positioned in immediate conjunction with the main group of price disclosures; that is, it

prices should be disclosed in this part of your General Price List.

(§ 453.2(b)(4)(ii)(J))

(vii) *Hearse.*—You must disclose the price you charge for use of a hearse. You may use any method of setting the price that you choose.

(§ 453.2(b)(4)(ii)(K))

(viii) *Limousine.*—If you provide the use of a limousine for family, clergy, etc., you must disclose this price on the General Price List.

(§ 453.2(b)(4)(ii)(L))

(ix) *Other Automotive Equipment.*—If you provide other automotive equipment, such as a flower car, family sedan or pallbearers' car, you must disclose the price and include a general description.

(§ 453.2(b)(4)(ii)(M))

(x) *Acknowledgement Cards.*—If you sell those items or if you perform the service of filling out and sending these for consumers you must quote a price on the General Price List.

(§ 453.2(b)(4)(ii)(N))

d. *Casket Prices.* Disclosure of prices for caskets may be handled in one of two ways; on the General Price List or on a separate Casket Price List. If a separate Casket Price List is provided the General Price List must still briefly discuss casket prices. All that is required is that the range of casket prices be disclosed and an accompanying statement be included that says: "A complete price list will be provided at the funeral home."

(§ 453.2(b)(4)(iii)(A)(1))

The second option is to put all casket prices on the General Price List. The explanation for doing this is contained in the section on casket prices dealt with earlier. Basically this simply requires that you provide a description and price for each type of casket you provide.

(§ 453.2(b)(4)(iii)(A)(2))

e. *Outer Burial Container Prices.* The next part of the Rule deals with Outer Burial Container prices on the General Price List. If you offer Outer Burial Containers you can either provide a separate price list or include these prices on the General Price List. If you provide a separate price list the General Price List must contain a brief statement of the price range for Outer Burial Containers and be accompanied by the statement: "A complete price list will be provided at the funeral home." If you choose to put these prices on the General Price List you must comply with the Outer Burial Container price list requirements of describing the types and prices of the Outer Burial Containers you offer.

(§ 453.2(b)(4)(iii)(B))

f. *Charges For Professional Services of the Funeral Director.* The final item that must be discussed on the General Price List is a provision for the cost of the professional services provided by the funeral director and staff. This item is intended to include, for example, the fee for the services you perform in arranging and supervising the funeral, securing necessary permits and notices, and coordination of the cemetery and/or crematory arrangements. It does not include the charges for the services entailed in forwarding and receiving remains, direct cremations and immediate burials and the services associated with the other funeral goods and services specifically enumerated in the Rule that must be listed separately on the General Price List, as discussed above. The Rule requires that the prices for those particular items include the fee for the services you perform in providing those goods and services.

The charges for your professional services, however, can be presented on the General Price List in one of two different ways. The first is to set these out separately and the second is to include your service charges in the price of caskets. Alternative 1 of the appended sample General Price Lists is designed to deal with charges for services set out separately and Alternative 2 of the appended sample General Price Lists includes those charges in casket prices. The choice of method is one that each funeral provider will want to make after considering what will be best for the establishment.

The first method is to disclose these service charges separately. If you price your services in this manner you must include a brief statement of the principal services you provide and the cost. If a charge for your services is something consumers may not decline you must also provide the following disclosure:

> This fee for our services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)

The statement in parenthesis simply lets consumers know that you are not charging them twice for your services for direct cremations, immediate burials, and forwarding or receiving remains.

The second method you can employ in charging for your services is to include the price of your services in the cost of caskets you offer for sale. If you choose this method of pricing you must include a disclosure stating:

> Please note that a fee for the use of our services is included in the price of our caskets. Our services include (specify).

You should include a brief list of the principal services you provide in this disclosure where it says "specify." You do not have to provide separate prices for these services.

This disclosure must be placed in the part of the General Price List dealing with casket prices. If you have a separate Casket Price List this should be included in conjunction with the statement of casket price ranges on the General Price List. If you include casket prices on the General Price List this disclosure must appear in conjunction with your list of those prices.

(Section 453.2(b)(4)(iii)(C))

(3) Illustrations Regarding the General Price List

The Rule requires the General Price List to be given to consumers who inquire in person about funeral arrangements or the price of funeral goods or services. The list must be offered to consumers upon beginning discussion either of funeral arrangements or of the selection of any funeral goods or funeral services.

Illustration #1: A family enters your establishment to discuss funeral arrangements for a relative. When the subject is raised, you offer them a copy of your General Price List. Are you in compliance with the Rule?

Yes. The family has inquired in person about funeral arrangements. Therefore, the list must be offered to them.

Illustration #2: You are a funeral provider who receives a phone call from a consumer who asks you about the price of a direct cremation. In compliance with the telephone price disclosure provisions of the Rule, you inform them of the price you charge for this service. The caller then asks you to send them a copy of your General Price List. Does the Rule require you to send them a copy?

No. The Rule requires that the General Price List be given only to consumers who inquire in person about funeral arrangements or the prices of funeral goods or services. It does not require funeral providers to send price lists to consumers who telephone and request a copy.

Illustration #3: You are a funeral provider who arranges for tours of your establishment by students. During one such tour, a student asks you about the price of embalming. Does the Rule require you to give the student a copy of your General Price List?

disclose the price on the statement of goods and services selected.

Illustration #14: You are a funeral provider who upon occasion at the request of a consumer will provide services away from the premises of your funeral home. Although this is not a service you regularly offer, you wish to list it on the General Price List. Can you list this service on the General Price List even though it is not required by the Rule?

Yes. The Rule does not limit the number of offerings that may be included on the General Price List.

Illustration #15: Can a funeral provider include terms of payment for the services, facilities, and goods on the General Price List?

Yes. Funeral providers may add such information to the General Price List.

Illustration #16: You are a funeral provider who receives a call from a family informing you of a death and desiring to make some funeral arrangements over the phone and other arrangements in person at a later time. For example, the family inquires whether your funeral home is available for viewing at a specified time and informs you that they will visit in person to select a casket shortly. Can the funeral provider make the arrangements despite the fact that the family has not received a General Price List?

Yes. The funeral provider can make the arrangements even though the family has not received a General Price List. Under these circumstances, the family has inquired about the "terms, conditions, or prices" of funeral goods and therefore the funeral provider must inform the family that price information is available over the telephone. In addition, the Rule requires the funeral provider to provide specific price information from the price lists, on request, and to answer any other questions with information that is readily available. The funeral provider can then complete the arrangements when the family visits in person. At that time, the General Price List would be offered to the family because they have inquired in person about funeral arrangements.

Illustration #17: You are a funeral provider who is called to a nursing home for removal of a body. When you arrive the family inquires whether your establishment is available at a specified time. Does the Rule require the funeral provider to present the family with a General Price List at that time?

No. The Rule only requires funeral providers to offer the General Price List when people inquire in person about funeral arrangements. However, if the family wants to reserve your facilities and you are willing to make these arrangements at this time, then the family is entitled to receive a General Price List.

Illustration #18: You are a funeral provider in a state where state law prohibits a funeral provider from making a profit on any cash advance item. Under state law, all such items must be listed on the funeral provider's price list as a good or service. Can you place these items on the General Price List?

Yes. These items may be included on the General Price List.

Illustration #19: A family arrives at the funeral home. The discussion concerns the final illness, information for the death certificate and social security benefits. Must the General Price List be given to the family at this point in the discussions?

No. At this point, the discussion has not concerned funeral arrangements or the prices of any funeral goods or services. Therefore, the requirement to offer the General Price List has not been triggered. However, a General Price List must be offered when the discussion concerns funeral arrangements or the prices of any funeral goods or services.

F. Price Disclosures at the Conclusion of the Arrangements Discussion: Section 453.2(b)(5)

This provision of the Rule requires funeral providers to prepare a document which lists the funeral goods and services selected by the consumer. This document must be given to consumers at the conclusion of the arrangement discussion. The list must disclose at least the following information:

(1) The goods and services selected and the price to be paid for each item;

(2) The price of each cash advance item requested; and

(3) The total cost of the goods and services selected.

In addition, the following disclosure must be placed on the statement:

> Charges are only for those items that are used. If we are required by law to use any items, we will explain the reasons in writing below.

To comply with this disclosure, you must identify and disclose in writing any legal, cemetery or crematory requirement which mandates that the consumer purchase a specific funeral good or service.

Illustration #1: You are a funeral provider who already includes the information required by the Statement of Funeral Goods and Services Selected on a document that you regularly provide to consumers at the conclusion of the arrangements conference. Does the Rule require you to prepare another document to comply with this provision?

No. Funeral providers who already provide the disclosures required by the Rule on any other statement, contract or other document given to consumers at the conclusion of the arrangements conference need not prepare a second document to comply with the Rule. However, the statement given to consumers at the time must include the required disclosure regarding legal requirements, above, and funeral providers are required to explain any such requirement on the statement.

Illustration #2: Does the statement required by the Rule mean that consumers are to pay in advance?

No. The Rule does not require that consumers pay in advance. It simply means that funeral providers and consumers are to agree on the type of funeral and the costs, in advance of beginning the arrangements.

Illustration #3: You are a funeral provider who purchases cash advance items on behalf of consumers who arrange funerals through your establishment. At the time of the arrangements conference you often do not know the exact price of the cash advance items. Do you have to disclose the exact price of cash advance items on the statement?

No. The prices of cash advance items need only be given to the extent known or reasonably ascertainable at the time of the arrangements conference. If the prices are not known or are not reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid.

Illustration #4: Is it permissible to simply lump all of the cash advance items into one general disclosure marked "Cash Advances" with one price?

No. Each cash advance item must be separately itemized. Thus, the Statement of Funeral Goods and Services Selected must have a separate itemized price for each type of cash advance item requested by the consumer.

Illustration #5: You are a funeral provider who wants to use the Statement of Funeral Goods and Services Selected as the final bill. Are there any other disclosures required by the Rule which must appear on the final bill?

Yes. If you use the Statement of Funeral Goods and Services Selected as a final bill, the following disclosures must be added:

> If you selected a funeral which requires embalming, such as a funeral with a viewing, you may have to pay for embalming.

and the family does not want a sealed casket. Can you tell the family that embalming is required?

Yes. In this situation, even though there is no *legal* requirement that the body be embalmed, the Rule allows you to tell the family that embalming is a *practical* necessity to delay decomposition of the remains and to preserve them for viewing. However, you may *not* tell the family that the law requires embalming since that is not the case. In addition, you must include the written disclosure on your General Price List that embalming is not usually required by law.

Illustration #6: A family enters your establishment and wants to arrange an immediate burial with no viewing. However, before burial, a family member wants to look at the body by lifting the lid of the unsealed casket. In your jurisdiction, there is no law or regulation that requires embalming. Can you tell the family that embalming is required?

No. You may not tell the family that the law requires embalming since that is not true. In addition, the fact that a family member wants to look at the remains does not constitute a formal viewing which would enable you to tell the family that embalming is required. Finally, you must include the written disclosure on your General Price List regarding embalming.

Illustration #7: Can a funeral provider choose to orally inform consumers that embalming is not generally required by law and that depending on the funeral chosen, they may not need to have embalming performed rather than placing a written disclosure on the Price List?

No. The Rule requires funeral providers to make the disclosures in writing on the Price List. However, funeral providers may in addition to making the written disclosures inform consumers orally that embalming is not generally required by law.

Cross-Reference: This provision operates in tandem with a related provision that sets forth the guidelines that govern when you may embalm the remains for a fee. We discuss that provision below. (See Part VI.)

B. Representations Concerning Caskets for Cremations: Section 453.3(b)

This provision prohibits you from telling consumers that state or local law requires them to purchase a casket when they wish to arrange for a direct cremation. The Rule defines a "direct cremation" as one that occurs without any formal viewing of the remains or any visitation or ceremony with the body present.

This provision also states that you may not tell a consumer that a casket is required for a direct cremation unless you make clear that you are only referring to an unfinished wood box. The Rule defines "unfinished wood box" as an unornamented casket which is made of wood and which does not have a fixed interior lining.

If you arrange direct cremations for your clients you must disclose certain information to them. You must make the disclosure in writing, and it must appear on your General Price List next to the place where you list the price range for direct cremations. The disclosure is as follows:

If you want to arrange a direct cremation, you can use an unfinished wood box or an alternative container. Alternative containers can be made of materials like heavy cardboard or composition materials (with or without an outside covering), or pouches of canvas.

Illustration #1: A family enters your establishment and wants to arrange for a funeral involving a direct cremation. This is one of the services that your establishment provides. Can you represent that a casket is required by law?

No. You may not make any representation to the family that either state or local law requires them to purchase a casket. In addition, you may not inform the family that they are required to buy any sort of casket, other than an unfinished wood box, for a direct cremation. Finally, you must place a written disclosure on your General Price List that either unfinished wood boxes or alternative containers are available for direct cremations. The precise language of this disclosure appears above.

Illustration #2: A family wants to arrange for a funeral involving a direct cremation. This is not a service that your establishment provides. Can you tell them that the law requires them to buy a casket in such a circumstance?

No. You may *not* make any statement that caskets are required for direct cremations. However, in this instance, you are required to make any written disclosures about the availability of alternative containers since the Rule requires you to do so only when you offer direct cremations.

Illustration #3: You are a funeral provider who offers both direct cremation and immediate burial. A family requests that you arrange for an immediate burial. Must you tell the family that they have the option of buying an alternative container or unfinished wooden box?

No. In this instance, you are not required to inform the family that they can use an unfinished wood box or an alternative container. Although the General Price List must include the disclosure regarding use of an alternative container or unfinished wood box for direct cremation, the Rule does not require you to make these goods available for sale for immediate burial.

Illustration #4: You are a funeral provider who offers direct cremation and cremation following a service with a viewing. A family enters your establishment and asks you to arrange a funeral involving cremation. However, they also want a service with viewing of the remains and the cremation afterwards. Do have to tell the family that alternative containers or unfinished wooden boxes are available?

Yes. If your establishment offers direct cremations, the Rule requires you to offer a General Price List containing the disclosure informing consumers that an unfinished wood box or alternative container is available for direct cremation. No oral disclosures are required by the Rule. However, you have the option to orally explain to the family that those items apply for *direct* cremations and that you do not provide them for cremations that occur after a viewing. The Rule does not prevent you from selling a casket in this situation.

Illustration #5: You are a funeral provider who offers direct cremation. However, none of the crematories in your area accept pouches. Can you modify the disclosure required by the Rule to delete the reference to "pouches of canvas"?

No. You are required to include the disclosure verbatim. However, you may add information to the disclosure. For example, funeral providers may inform consumers in writing that local crematory requirements prohibit use of non-rigid containers.

Cross Reference:

This provision operates in tandem with a related provision that sets forth the guidelines governing the sale of receptacles for remains that are to be cremated. We discuss that provision below. (See Part V.)

C. Representations Concerning Outer Burial Containers: Section 453.3(c)

This provision states that you may not tell consumers that state or local laws or regulations require the purchase of an outer burial container if that is not true; or that a particular cemetery requires an outer burial container, if that is not true.

period longer than five years. Must you make the warranty available to the family?

Yes. Existing federal law requires you to make all warranty information available to the consumer. This means that you must allow the family to read any of the manufacturer's warranties. However, you must disclose the warranty information, without adopting as your own any statement that you know to be a violation of the Rule. You may, if you wish, inform the family that while the manufacturer has made certain statements about the product that you are required to disclose, you do not have personal knowledge of the preservative value of the merchandise that enables you to state that it has a preservative effect after burial.

F. Representations Concerning Cash Advances: Section 453.3(f)

This provision states that you may not tell consumers that the price that you charge them for a cash advance item is the same price that you paid for it, when such is not the case. A cash advance item is any item which you describe to purchasers as a cash advance, accommodation, cash disbursement, or any similar terms.

The section also provides that if there is a markup on a cash advance item, you must disclose that fact to consumers in writing. To do so, you must place the following sentence on your General Price List at the end of the cash advance disclosure that is required by a previous section (§ 453.2(b)(4)(i)(D)):

"We charge you for our service in buying these items."

You must make this written disclosure whenever you charge for obtaining cash advance items or receive and retain a rebate, commission or trade or volume discount on them. The Rule does *not* prevent you from adding a service charge nor does it require you to disclose the amount of that charge. Moreover, there is no restriction on how much you may charge. The Rule merely states that if you add a service charge to the cost of a cash advance item, you must disclose this fact to the consumer on your General Price List.

Illustration #1: A family asks you to arrange a funeral and asks for flowers as part of the service. You obtain the flowers from the florist, pay $50.00 for them, and charge the family $75.00. Can you tell the family that the amount you are charging them is the same amount that you paid for the flowers?

No. You may not represent to the family in any way that the cost to you for obtaining the flowers is the same as the amount that you are charging them. In addition, when you bill the family for $75.00, you must disclose that you are adding a service charge to the cost of the flowers. The precise language of this disclosure appears in the earlier discussion of the cash advance provision.

Illustration #2: Same situation as in Illustration #1, above, except that, instead of adding a service charge to the cost of the flowers, you charge the same amount that you paid for them but receive a trade or volume discount at the end of the year. Can you tell the family that the amount you are charging them for the flowers is the same amount that you paid?

No. You may not represent to the family in any way that the cost to you for obtaining the flowers is the same as the amount you are charging them. There is no requirement that you disclose the *amount* of that discount or rebate to the consumer. However, you must inform the consumer of the fact that you receive such a discount. You do this in the same manner as above, by making a disclosure in writing on your General Price List.

V. Can the Sale of Any Funeral Goods or Funeral Services Be Conditioned Upon the Purchase of Any Other Funeral Goods or Services? Section 453.4

This section prohibits funeral providers from requiring consumers to purchase unwanted and unneeded goods and services as a condition of obtaining those goods and services which consumers do want. It provides that consumers be informed of the option to select only those goods or services they want with certain exceptions. The section also indicates situations when certain goods or services may be required by the provider.

A. Casket for Cremation Provisions: Section 453.4(a)

This provision prohibits funeral providers from requiring consumers to purchase a casket, other than an unfinished wood box, for direct cremation. Thus, funeral providers who arrange direct cremations for consumers need to offer consumers something other than a casket, such as an unfinished wood box or alternative container. A direct cremation is a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present. An unfinished wood box is an unornamented casket made of wood which does not have a fixed interior lining. An alternative container is a non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of cardboard, pressed-wood, composition materials (with or without an outside covering) or pouches of canvas or other materials.

Illustration #1: A consumer enters your establishment and wants you to arrange a direct cremation for a deceased relative. For direct cremation you offer, in addition to your regular casket selection, unfinished wood boxes. May the consumer demand that you sell alternative containers when all you offer are unfinished wood boxes?

No. The Rule requires you to make either an unfinished wood box or an alternative container available if you offer direct cremations. The funeral provider can choose to offer either alternative containers or unfinished wood boxes or offer both of them. If you offer unfinished wood boxes for direct cremations you need not offer alternative containers. Similarly, if you offer alternative containers, you need not offer unfinished wood boxes. The choice of offering either an alternative container or unfinished wood box is wholly within the business judgment of the funeral provider.

Illustration #2: A consumer wants to purchase a direct cremation from a provider who does not offer direct cremations. Must the provider offer the service to comply with the Rule?

No. The Rule does not require providers to offer direct cremations. However, once the provider decides to offer direct cremations, the Rule requirements are applicable.

Illustration #3: You are a funeral provider who offers direct cremations. Do you need to stock unfinished wood boxes or alternative containers in inventory to comply with the Rule?

No. The Rule does not require funeral providers to maintain an inventory of unfinished wood boxes or alternative containers. All that is needed is for you to be able to secure such a container, on request, and make it available for use in a direct cremation. If you can obtain the container from a supplier when needed, you will be in compliance with the Rule.

Illustration #4: A consumer enters your establishment and wants to arrange an immediate burial for a deceased relative. You are a funeral provider who also offers direct cremations and who has alternative containers in inventory. May the consumer insist that you sell an alternative container or an unfinished wood box for the immediate burial?

No. The Rule requires the funeral provider to offer unfinished wood boxes or alternative containers for direct cremations only. It does not require

No. The Rule will not allow you to require consumers to pay for embalming in this instance. There is no reason, from the facts stated, why the arrangements requested would be impractical, impossible, or unduly burdensome to provide. The fact that you believe that embalming is appropriate for all bodies does not mean that you can require the family to purchase embalming.

Illustration #10: You are a funeral provider who receives a request for a service that you do not offer. Must you comply with the request?

No. The Rule does not require you to provide a good or service you do not offer. Therefore, you are not required to comply with the request, although you can if you so desire.

Illustration #11: A family enters your establishment and asks you to arrange a direct cremation. They inform you that they wish to provide their own container. Can you insist that they purchase a container from you?

No. You cannot insist that they purchase a container from you if the family supplies one of their own that satisfies crematory requirements. Moreover, you cannot charge them for a container.

Illustration #12: Can a funeral provider have a fee for use or basic facilities which is non-declinable?

No. Only the professional services of funeral director and staff and items required under state law can be non-declinable charges. However, a funeral provider can recover his or her overhead costs for items such as mortgage or rent, utilities and taxes. For example, funeral directors may allocate a portion of their overhead charges to each item offered or may include these charges in their fee for professional services.

Illustration #13: Can a funeral provider require that a consumer who declines embalming pay for other preparation of the body when the family does not wish to have a public viewing but wishes to see the body prior to disposition?

No. Consumers who do not wish to have a public viewing but who wish to see the body prior to disposition cannot be required to purchase other preparation of the body if they decline embalming. Rather, funeral providers are required to list other preparation as a separate item which may be selected by a consumer, if desired.

Illustration #14: You are a funeral provider who operates a funeral home and crematory. The crematory serves not only the needs of your funeral home but also other funeral providers. Can you have a requirement that consumers use an unfinished wood box if they wish to use the services of your crematory?

Yes. The Rule does not prohibit funeral providers or crematories from requiring that consumers use unfinished wood boxes for direct cremation. However, you cannot require that consumers purchase the unfinished wood box from you in order to purchase the other goods or services you offer.

VI. Can a Fee Be Charged for Services Provided Without Prior Approval? Section 453.5

This provision prohibits you from charging a fee to embalm unless:

(1) State or local law requires embalming; or

(2) The family gives you express permission to embalm prior to embalming; or

(3) You meet the following requirements if there are *exigent circumstances:*

(a) You are unable to contact a family member or other authorized person after exercising due diligence; *and*

(b) You have no reason to believe that the family does not want embalming; *and*

(c) After embalming the body, you contact the family telling them that if they choose a funeral which does not require embalming no fee will be charged, but that a fee will be charged if they select a funeral requiring embalming, and they then approve the embalming, either expressly or impliedly.

The Rule also requires you to place a written disclosure on the final bill or agreement given to customers informing them of their right not to pay for embalming performed without prior approval unless they select a type of funeral which would require embalming. Moreover, the disclosure must state that if a fee is charged for embalming, a written explanation will appear on the final bill or agreement given to the customer.

The exact language of the disclosure is:

> If you selected a funeral which requires embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below.

Illustration #1: A family enters your establishment and wants to arrange for a funeral service for someone for whom the cause of death was smallpox. The law in your state provides that whenever the deceased has died of certain highly contagious diseases, such as diphtheria, malaria, or smallpox, the remains must be embalmed. Can you charge a fee for embalming?

Yes. The Rule clearly provides that a fee for embalming may be charged if state or local law requires embalming. In addition, you must explain to the consumer on the final bill or agreement that a charge was made for embalming because of the state law requirement.

Illustration #2: You get a telephone call requesting that you pick up a body and transfer it to your establishment. As soon as the body arrives, you embalm it even though there was no legal requirement to do so. Can you charge a fee for embalming?

No. You may not charge a fee for this service because you did not attempt to obtain the family's permission prior to embalming the body. In addition, state law did not require embalming.

Illustration #3: You get a telephone call requesting that you pick up a body at the deceased's home and transfer it to your establishment. While at the family's home you tell them that "we will proceed immediately with arrangements for the funeral." When the body arrives at the funeral home, you embalm it. There is no state law requiring embalming. Can a fee for embalming be charged to the family in such a circumstance?

No. The family has not given you express permission to embalm prior to embalming in this situation. The same result would be reached if you told the family that you were "taking the body to the funeral home and proceeding with its preparation". In order to charge a fee for embalming when you are able to contact a family prior to embalming you must obtain express permission to do so. The Rule is flexible so that the exact language to be used is up to you. However, the permission must be express; indirect or implied permission is not sufficient. Additionally, because you were able to contact the family prior to embalming, the provisions permitting you to embalm under exigent circumstances are inapplicable.

Illustration #4: A family enters your establishment and wants to arrange for a funeral for their relative. During the arrangements conference, you ask for and receive their consent to embalm the body. Can you charge a fee for embalming?

Yes. The family has given you express permission to embalm prior to embalming. On the final bill or agreement given to the family, you must explain that a fee for embalming was charged because the family approved the service.

Illustration #5: You receive a phone call requesting that you pick up a body and transfer it to your establishment. When the body arrives, you attempt to

No. The Rule will not allow you to require consumers to pay for embalming in this instance. There is no reason, from the facts stated, why the arrangements requested would be impractical, impossible, or unduly burdensome to provide. The fact that you believe that embalming is appropriate for all bodies does not mean that you can require the family to purchase embalming.

Illustration #10: You are a funeral provider who receives a request for a service that you do not offer. Must you comply with the request?

No. The Rule does not require you to provide a good or service you do not offer. Therefore, you are not required to comply with the request, although you can if you so desire.

Illustration #11: A family enters your establishment and asks you to arrange a direct cremation. They inform you that they wish to provide their own container. Can you insist that they purchase a container from you?

No. You cannot insist that they purchase a container from you if the family supplies one of their own that satisfies crematory requirements. Moreover, you cannot charge them for a container.

Illustration #12: Can a funeral provider have a fee for use or basic facilities which is non-declinable?

No. Only the professional services of funeral director and staff and items required under state law can be non-declinable charges. However, a funeral provider can recover his or her overhead costs for items such as mortgage or rent, utilities and taxes. For example, funeral directors may allocate a portion of their overhead charges to each item offered or may include these charges in their fee for professional services.

Illustration #13: Can a funeral provider require that a consumer who declines embalming pay for other preparation of the body when the family does not wish to have a public viewing but wishes to see the body prior to disposition?

No. Consumers who do not wish to have a public viewing but who wish to see the body prior to disposition cannot be required to purchase other preparation of the body if they decline embalming. Rather, funeral providers are required to list other preparation as a separate item which may be selected by a consumer, if desired.

Illustration #14: You are a funeral provider who operates a funeral home and crematory. The crematory serves not only the needs of your funeral home but also other funeral providers. Can you have a requirement that consumers use an unfinished wood box if they wish to use the services of your crematory?

Yes. The Rule does not prohibit funeral providers or crematories from requiring that consumers use unfinished wood boxes for direct cremation. However, you cannot require that consumers purchase the unfinished wood box from you in order to purchase the other goods or services you offer.

VI. Can a Fee Be Charged for Services Provided Without Prior Approval? Section 453.5

This provision prohibits you from charging a fee to embalm unless:

(1) State or local law requires embalming; or

(2) The family gives you express permission to embalm prior to embalming; or

(3) You meet the following requirements if there are *exigent circumstances:*

(a) You are unable to contact a family member or other authorized person after exercising due diligence; *and*

(b) You have no reason to believe that the family does not want embalming; *and*

(c) After embalming the body, you contact the family telling them that if they choose a funeral which does not require embalming no fee will be charged, but that a fee will be charged if they select a funeral requiring embalming, and they then approve the embalming, either expressly or impliedly.

The Rule also requires you to place a written disclosure on the final bill or agreement given to customers informing them of their right not to pay for embalming performed without prior approval unless they select a type of funeral which would require embalming. Moreover, the disclosure must state that if a fee is charged for embalming, a written explanation will appear on the final bill or agreement given to the customer.

The exact language of the disclosure is:

> If you selected a funeral which requires embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below.

Illustration #1: A family enters your establishment and wants to arrange for a funeral service for someone for whom the cause of death was smallpox. The law in your state provides that whenever the deceased has died of certain highly contagious diseases, such as diphtheria, malaria, or smallpox, the remains must be embalmed. Can you charge a fee for embalming?

Yes. The Rule clearly provides that a fee for embalming may be charged if state or local law requires embalming. In addition, you must explain to the consumer on the final bill or agreement that a charge was made for embalming because of the state law requirement.

Illustration #2: You get a telephone call requesting that you pick up a body and transfer it to your establishment. As soon as the body arrives, you embalm it even though there was no legal requirement to do so. Can you charge a fee for embalming?

No. You may not charge a fee for this service because you did not attempt to obtain the family's permission prior to embalming the body. In addition, state law did not require embalming.

Illustration #3: You get a telephone call requesting that you pick up a body at the deceased's home and transfer it to your establishment. While at the family's home you tell them that "we will proceed immediately with arrangements for the funeral." When the body arrives at the funeral home, you embalm it. There is no state law requiring embalming. Can a fee for embalming be charged to the family in such a circumstance?

No. The family has not given you express permission to embalm prior to embalming in this situation. The same result would be reached if you told the family that you were "taking the body to the funeral home and proceeding with its preparation". In order to charge a fee for embalming when you are able to contact a family prior to embalming you must obtain express permission to do so. The Rule is flexible so that the exact language to be used is up to you. However, the permission must be express; indirect or implied permission is not sufficient. Additionally, because you were able to contact the family prior to embalming, the provisions permitting you to embalm under exigent circumstances are inapplicable.

Illustration #4: A family enters your establishment and wants to arrange for a funeral for their relative. During the arrangements conference, you ask for and receive their consent to embalm the body. Can you charge a fee for embalming?

Yes. The family has given you express permission to embalm prior to embalming. On the final bill or agreement given to the family, you must explain that a fee for embalming was charged because the family approved the service.

Illustration #5: You receive a phone call requesting that you pick up a body and transfer it to your establishment. When the body arrives, you attempt to

This list does not include prices for certain items that you may ask us to buy for you, such as cemetery or crematory services, flowers, and newspaper notices. The prices for those items will be shown on your bill or the statement describing the funeral goods and services you selected. [We charge you for our services in buying these items.]**

FORWARDING OF REMAINS TO ANOTHER FUNERAL HOME: $——

This charge includes:
- removal of remains
- services of staff
- necessary authorizations
- embalming
- local transportation (but not shipping charges)

RECEIVING OF REMAINS FROM ANOTHER FUNERAL HOME: $——

This charge includes:
- services of staff
- care of remains
- transportation of remains to cemetery of crematory

DIRECT CREMATIONS: $—— to $——

Our charge for a direct cremation (without ceremony) includes
- removal of remains and transportation to crematory
- cremations
- necessary services of staff and authorizations

If you want to arrange a direct cremation, you can use an unfinished wood box or an alternative container. Alternative containers can be made of materials like heavy cardboard or composition materials (with or without outside covering), or pouches of canvas.

1. Direct Cremation with container provided by purchaser. $——
2. Direct Cremation with alternative container. $——
3. Direct Cremation with unfinished pine box. $——

IMMEDIATE BURIALS: $—— to $——

Our charge for an immediate burial (without ceremony) includes:
- removal of body
- local transportation to cemetery
- necessary services of staff and authorizations.

** This sentence should be omitted if the funeral director does not make a service charge or does not receive and retain a rebate, commission or trade or volume discount upon a cash advance item.

1. Immediate burial with container provide by purchaser. $——
2. Immediate burial with unfinished pine box. $——
3. Immediate burial with beige cloth-covered soft wood casket with beige interior. $——

FUNERAL ARRANGEMENTS: $——

Transfer of Remains to Funeral Home (within 50 mile radius).

Embalming ..... $——

Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement which does not require you to pay it, such as a direct cremation or immediate burial.

Other Preparation of Body .... $——
Use of Facilities for Viewing:
- Main Stateroom (per day). $——
- Smaller Stateroom (per day). $——

Use of Facilities for Funeral Ceremony:
- Chapel ..... $——
- Smaller Stateroom ..... $——

Other Use of Facilities: Tent and chairs for graveside service. $——
Hearse ..... $——
Limousine ..... $——
Other Automotive Equipment:
- Flower car ..... $——
- Family car ..... $——

Acknowledgement Cards ..... $——
Caskets ..... $—— to $——

(A complete price list will be provided at the funeral home.)

Outer Burial Containers ..... $—— to $——

(A complete price list will be provided at the funeral home.)

Other:
- Pallbearers (6) ..... $——
- Burial clothing ..... $—— to $——

Services of Funeral Director and Staff. $——

Our charge includes arrangement of funeral and consultation with the family and clergy, direction of the visitation and funeral, preparation and filing of necessary notices, and authorizations and consents. This fee for our services will be added to the total cost of the funeral arrangements you select. (Such a fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)

ANY NAME FUNERAL HOME

CASKET PRICE LIST

(These prices are effective as of Month, Day, Year)

Simple Casket or Other Containers:
1. Canvas Pouch ..... $——
2. Cardboard Box ..... $——
3. Plywood Box ..... $——
4. Composition Box ..... $——
5. Unfinished Pine Box ..... $——

Caskets:
1. Beige cloth-covered softwood with beige interior. $——
2. Taupe embossed cloth-covered softwood with pleated beige crepe interior. $——
3. 22 gauge bronze colored metal with white interior. $——
4. 22 gauge silver tone metal with blue crepe interior. $——
5. 20 gauge copper toned metal with mauve interior. $——
6. 20 gauge rose colored metal with pleated beige interior. $——
7. Oak stained soft-wood with pleated blue crepe interior. $——
8. Mahogany finished soft-wood with maroon crepe interior. $——
9. Solid white pine with beige crepe interior. $——
10. 20 gauge lead coated steel with bronze tone finish and white crepe interior. $——
11. 20 gauge lead coated steel with bronze tone finish and tan crepe interior. $——
12. 18 gauge steel with pale blue finish and off-white interior. $——
13. 10 gauge steel with bronze highlights and tan crepe interior. $——
14. Solid mahogany with tufted beige velvet interior. $——
15. Hand-finished solid cherry with pale blue velvet interior. $——
16. 16 gauge bronze finished with maroon velvet interior. $——

ANY NAME FUNERAL HOME

OUTER BURIAL CONTAINER PRICE LIST

(These prices are effective as of Month, Day, Year)

In most areas of the country, no state or local law makes you buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container so that the grave

3. Direct Cremation with unfinished pine box. $——

IMMEDIATE BURIALS: $—— to $——

Our charge for an immediate burial (without ceremony) includes:

- removal of body
- local transportation to cemetery
- necessary services of staff and authorizations

1. Immediate burial with container provided by purchaser. $——
2. Immediate burial with unfinished pine box. $——
3. Immediate burial with beige cloth-covered soft wood casket with beige interior. $——

FUNERAL ARRANGEMENTS: $——

Transfer of Remains to Funeral Home (within 50-mile radius).

Embalming ..... $——

Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement which does not require you to pay for it, such as a direct cremation or immediate burial.

Other Preparation of Body ..... $——

Use of Facilities for Viewing:

Main Stateroom (per day). $——

Smaller Stateroom (per day). $——

Use of Facilities for Funeral Ceremony:

Chapel ..... $——

Smaller Stateroom ..... $——

Other Use of Facilities: Tent and chairs for graveside service. $——

Hearse ..... $——

Limousine ..... $——

Other Automotive Equipment:

Flower car ..... $——

Family car ..... $——

Acknowledgement Cards ..... $——

Caskets: Please note that a fee for the use of our services is included in the price of our caskets. Our services include arrangement of funeral and consultation with the family and clergy, direction of the visitation and funeral, preparation and filing of necessary notices, and authorizations and consents.

1. Beige cloth-covered soft-wood with beige interior. $——
2. Taupe embossed cloth-covered soft-wood with pleated beige crepe interior. $——
3. 22 gauge bronze colored metal with white interior. $——
4. 22 gauge silver toned metal with blue crepe interior. $——
5. 20 gauge copper toned metal with mauve interior. $——
6. 20 gauge rose colored metal with beige pleated interior. $——
7. Oak stained soft-wood with pleated blue interior. $——
8. Mahogany finished soft-wood with maroon crepe interior. $——
9. Solid white pine with beige crepe interior. $——
10. 20 gauge lead coated steel with silver tone finish and white crepe interior. $——
11. 20 gauge lead coated steel with bronze tone finish and tan crepe interior. $——
12. 18 gauge steel with pale blue finish and off-white interior. $——
13. 18 gauge steel with bronze highlights and tan crepe interior. $——
14. Solid mahogany with tufted beige velvet interior. $——
15. Hand-finished solid cherry with pale blue velvet interior. $——
16. 16 gauge bronze finished with maroon velvet interior. $——

Outer Burial Containers: In most areas of the country, no state or local law makes you buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container so that the grave will not sink in. Either a burial vault or a grave liner will satisfy these requirements.

1. Concrete grave liner ..... $——
2. Standard concrete vault ..... $——
3. Deluxe asphalt steel-lined vault. $——
4. Solid copper vault ..... $——

Other:

Pallbearers (6) ..... $——

Burial clothing ..... $——

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16 CFR Part 453

Trade Regulation Rule; Funeral Industry Practices

AGENCY: Federal Trade Commission.

ACTION: Analysis of Public Comments Received on Staff Compliance Guidelines.

SUMMARY: The staff of the Federal Trade Commission publishes its analysis of the public comments received in response to its request for comment on the staff compliance guidelines for the Funeral Rule. This notice summarizes and analyzes the issues raised by the twenty commenters and notes those parts of the guidelines which have been amended, supplemented, or otherwise changed in response to the comments. The revised compliance guidelines are published in a separate notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Lewis Rose, 202-376-2863; Raouf M. Abdullah, 202-376-2891; or Lee J. Plave, 202-376-2805; Attorneys, Federal Trade Commission, Division of Enforcement, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On March 14, 1984, the staff published its compliance guidelines for the entire Funeral Rule in the **Federal Register** for a 30 day public comment period.[1] The guidelines explain how the Rule operates in specific fact situations which may arise in the ordinary course of business for many funeral providers. In addition, the guidelines contain staff's model price lists illustrating the price list requirements of the Rule. The views expressed in the guidelines are those of the staff only. They have not been approved or adopted by the Commission and are not binding on the Commission. However, the guidelines will serve as enforcement criteria for the staff in assessing compliance with the trade regulation rule.

The comment period ended on April 13, 1984. This notice summarizes and analyses the issues raised by the twenty commenters, and notes those parts of the guidelines which have been amended, supplemented or otherwise changed in response to the comments.

Twenty interested parties filed comments.[2] Five of the commenters either addressed issues that are not directly relevant to the request for public comment or suggested substantive amendments or modifications to the Funeral Rule, which go beyond the scope of this inquiry. These comments include opinions regarding the merits of itemized pricing relative to package pricing[3], requests for inclusion of minimum embalming standards in the Rule[4], requests for change in nomenclature used by the Rule[5] and a request to include a disclosure in the Rule about sealed caskets.[6] The remaining fifteen

[1] 49 FR 9688 (March 14, 1984).

[2] The comments have been placed in the public record for this proceeding under Category XXVII (Staff Submissions and Public Comments Filed Regarding Staff Compliance Guidelines) in FTC File No. 215-46. The comments have been labelled Document Nos. XXVII-11 through XXVII-30 respectively.

[3] James H. Pierce, XXII-12 (Funeral directors using itemized pricing could take advantage of consumers under emotional stress and therefore unit pricing is a better system).

[4] Koool, Kave Koold Kabinet Supply Internationale, XXVII-14 (Bodies being held by embalming process should not be allowed to deteriorate for 30 days).

[5] Baumgardner Products Company, XXVII-19; and The Clark Grave Vault Co., XXVII-18, suggested that the term "outer burial container" be changed to "Outside Enclosure" or "Outer Receptacle".

[6] E.G. McCabe, Jr., XXVII-17 (Rule should be amended to in form consumers that sealed caskets prevent water from the body from leaving the casket).

effective on two different dates, staff believes that including the effective dates in the guides at this place may be helpful.

Illustration #2: NFDA commented that the Rule would apply to contracts negotiated prior to the effective date of the Rule if the contract is downgraded or otherwise modified.[19] Because the illustration as published was directed only to those circumstances where the consumer wants to upgrade the arrangements specified in the contract, staff has modified the illustration to point out that the Rule applies when a consumer wants to change the funeral arrangements specified in a pre-need contract.

III. What Price Disclosures Must Be Made? Section 453.2

B. Price Disclosures Over the Telephone: Section 453.2(b)(1)

Three parties filed comments on the guidelines discussion of the telephone price disclosure provisions of the Rule.[20] The comments addressed the following illustrations:

(a) *Illustration #2:* Two commenters addressed the issue of whether telephone inquiries regarding whether a funeral provider performs funerals for a particular religion triggers the requirement of § 453.2(b)(1) to inform the caller that price information is available by telephone. NFDA commented that reference to a funeral of a particular religious denomination is not a "term, condition, or price" of funeral goods or services.[21] Further, NFDA pointed out that the guidelines conflict with comments made by staff at state compliance seminars. CAFMS endorsed staff's position that the price information disclosure is triggered by inquiries about funerals for a particular religion.[22] After careful reconsideration, staff believes that the position set forth in the guidelines should be changed. Staff agrees that inquiries about particular religious funerals do not constitute the "terms, conditions, or prices" at which funeral goods or services are offered. Thus, the funeral provider is not obligated to inform the caller that price information is available. However, because the information requested concerns the funeral provider's *offerings* and would be readily available, the funeral provider is required by § 453.2(b)(1)(ii) of the Rule to answer the specific question. This approach is more consistent with respect to telephone inquiries which do not concern specific funeral goods and services or prices. Under the amended guidelines, such questions do not trigger the disclosure of price information but still are required to be answered because the information is readily available. The guidelines have been modified, accordingly.

(b) *Illustration #3:* NFDA suggested that the answer to this illustration be expanded to inform funeral providers that questions concerning particular employees, the location of the funeral home, or similar questions dealing with the operation of the funeral home do not trigger the requirement to inform callers that price information is available because they are not about the "terms, conditions, or prices" of funeral goods or services.[23] In addition, NFDA commented that the last sentence in illustration #3 which states that questions about business hours should be answered because the information requested is readily available should be deleted because the Rule does not require any affirmative disclosures in the situation presented. Staff agrees. Questions concerning the location of the funeral home or about particular employees do not trigger the requirement to inform callers that price information is available. Similarly, these questions do not concern offerings or prices and therefore, the funeral provider is not required by the Rule to respond to such inquiries. Staff anticipates though that such questions would normally be answered voluntarily. The guidelines have been changed accordingly.

(c) *Illustration #4:* NFDA commented that this illustration should be split into two illustrations because it makes two points—that an answering machine may be used to register incoming calls and that such a machine may also be used to disclose price information.[24] While staff agrees with NFDA's interpretation of this illustration, we do not believe that it is necessary to alter the guidelines.

(d) *Illustration #6:* CAFMS disagrees with the statement in the guidelines that the availability of price information need not be disclosed in response to a telephone request to pick up a body from the place of death and transfer it to the funeral establishment.[25] CAFMS argues that by requesting such a service, the family is discussing a "term or condition" of a funeral, thereby triggering the Rule's requirement to inform callers that price information is available. After careful consideration, staff is persuaded that inquiring whether a funeral establishment will pick up a body is an inquiry regarding a "term" or "condition" of funeral arrangements. First, inquiring whether the funeral provider will pick up a body is an inquiry about a specific funeral service which is required to be itemized on the General Price List by § 453.2(b)(4) of the Rule. In addition, the Commission noted in the Statement of Basis and Purpose ("SBP") that the time constraints in arranging a funeral after a death has occurred make it difficult for consumers to get price information before choosing a funeral home.[26]

Additionally, because the initial inquiry as to whether a funeral provider will pick up the body from the place of death necessarily must occur within several hours after death, the gathering of price information by telephone may often constitute the only practical way in which price information can be obtained before a funeral provider is selected. Furthermore, the Commission noted that § 453.2(b)(1)(i) is intended to inform the large number of consumers who first contact the funeral home by telephone that price information can be obtained before the selection of a funeral home is made.[27] Therefore, staff believes that the caller is entitled to be informed that price information is available. If the family desired, they could then ask for the price of the service. Therefore, staff has changed illustration #6.

(e) *Illustration #7:* NFDA requested that illustration #7 be clarified by adding two sentences stating that when a funeral director is not available, the person answering the phone should be able to answer questions about prices from the three price lists but that desired information not available on the three price lists may be subject to the availability of a funeral director or other person reasonably able to answer other questions.[28] Staff agrees with the suggestion substantively but believes that the points raised by NFDA are clearly discussed in the guidelines and that changing the language might cause confusion. For example, the guides clearly state that if a funeral director is unavailable, part-time or untrained employees should inform the caller that price information is available and answer specific questions about prices from the preprinted lists. The guidelines further state that if there are questions which cannot be properly answered by

[19] NFDA, XXVII-29, Comment No. 8.

[20] PIAA, XXVII-25; CAFMS, XXVII-27; and NFDA, XXVII-29.

[21] NFDA, XXVII-29, Comment No. 10.

[22] CAFMS, XXVII-27, at p. 1.

[23] NFDA, XXVII-29, Comment Nos. 11, and 12.

[24] NFDA, XXVII-29, Comment No. 13.

[25] CAFMS, XXVII-27, at p. 1.

[26] 47 FR 42260, 42268 (Sep. 24, 1982).

[27] SBP, at 42273.

[28] NFDA, XXVII-29, Comment No. 14.

list upon beginning discussion of, but in any event before the customer is shown the offerings. Thus, if the family and funeral provider begin discussion of casket offerings at the funeral home, the price list must be offered at that time. Otherwise, the funeral provider must offer it at any time prior to the family being shown the offerings. However, funeral providers can make arrangements with casket manufacturers to give out the Casket Price List as long as the consumer is offered the list upon beginning discussion of, but in any event before being shown the offerings. Illustration #5 has been supplemented with this additional guidance.

The second issue raised by CMAA concerns retention of documents.[41] Specifically, CMAA inquires whether casket companies are required to retain price lists for their various funeral director customers who use the casket company selection room. CMAA also asks whether a casket company could be liable in the event that a casket company does not retain price lists and the funeral provider has not offered its clients the Casket Price List, in violation of the Rule. As noted above, casket companies are normally not covered by the Rule because they do not meet the definition of a funeral provider. However, as the Commission stated in the SBP accompanying the Rule, the Rule does cover a funeral provider's employees and agents. In response to CMAA's request, the guidelines note that the general rule is that only funeral providers are required to comply with the Rule. This point is explicitly stated in amended illustration #5. However, it is staff's opinion that either the casket company or the funeral provider could satisfy the Rule's document retention requirements.

Third, CMAA also requests guidance regarding "customized" caskets.[42] For example, the caskets available in the selection room are often available in different interior materials and designs, exterior hardware, and finishes. CMAA notes that it would be impossible to list the hundreds or thousands of potential combinations on any Casket Price List and states that many casket company selection rooms have the ability to meet such consumer requests. CMAA recommends that any consumer request for a customized casket be excluded from any of the price list requirements. Staff agrees that such requests are "special orders" which do not have to be listed. Section 453.2(b)(2) requires the Casket Price List to contain only those caskets which do not require "special ordering". If a funeral provider offers caskets for sale which may be available in a variety of options, staff believes that it would be sufficient to simply note on the price list that the caskets are available in a variety of interior materials and designs, exterior hardware, and finishes. After a customer completed the arrangements, the Statement of Funeral Goods and Services Selected would describe the casket and its price and the intent of the Rule would be satisfied. Accordingly, illustration #9 has been added to the guidelines on this issue.

Finally, CMAA, Bridge Casket Company, and McCullough Funeral Home commented on the number of caskets that need to be listed on the Casket Price List.[43] CMAA and Bridge Casket Company requested guidance on whether caskets stored in the warehouse need to be included on the Casket Price List in addition to the caskets in the selection room. The warehouse inventory may include hundreds of different caskets. The normal practice is for a casket company casket showroom to contain approximately 20 caskets. However, if a consumer could not find the particular casket desired in the showroom, the consumer would be allowed to select a casket that meets the consumer's needs from the warehouse. CMAA proposes that only the caskets available for sale in the casket selection showroom be disclosed on the Casket Price List. Other caskets, available in the warehouse, would be deemed "special orders". While staff recognizes the problem presented, we disagree with CMAA's proposed solution. The Rule requires all caskets offered which do not require special orderings to be included on the Casket Price List. This provision was inserted in the Rule in response to public comments and industry objection to an earlier version of the Rule which required that the three least expensive caskets be shown in the same manner as other caskets offered for sale. This proposed provision was originally included in the Rule in response to reports that funeral providers were discouraging purchase of such merchandise by all but the most persistant customers.[44] However, the Commission concluded that a less intrusive method of informing consumers about these offerings was available by requiring "full information about a funeral provider's offerings and prices to be disclosed on . . . a Casket Price List."[45] The Commission noted that such disclosures would let consumers know what merchandise and services the funeral providers sell, including the three least expensive caskets.[46] Thus, staff is concerned that if CMAA's proposal were adopted, funeral providers may put their less expensive offerings in the warehouse (which in many cases, is through a door in the showroom) and therefore be able to circumvent the intent of this Rule provision. It is staff's opinion that in the context of casket company showrooms, the caskets listed would generally be limited to those in the showroom. However, if a funeral provider elects to offer any or all of the caskets in the warehouse for sale, then these caskets must be listed on the price list. Under this approach, the number of caskets included on the price list, and the corresponding burden imposed, if any, would be controlled by the funeral provider.

(d) *Illustration #6:* CMAA and the Bridge Casket Company request guidance on how the Rule would apply when a casket described on a funeral provider's Casket Price List is temporarily out of stock and another unit, not on the funeral provider's Casket Price List, may have been substituted.[47] This issue is discussed in illustration #6, which states that if a casket is temporarily out of stock, the funeral provider can simply inform the consumer of this fact when the price list is given to the consumer.

In the context of a manufacturer's selection room, the consumer can simply

[41] CMAA, XXVII-24

[42] *Id.*

[43] CMAA, XXVII-24; Bridge Casket Company XXVII-13; and McCullough Funeral Home, XXVII-23. McCullough Funeral Home commented that his casket supplier has notified him that the casket showroom will be closed due to the Funeral Rule. Specifically, the casket supplier stated his opinion that under the Rule, he can no longer have a showroom unless each unit is itemized on a casket price list, including those units in the warehouse as well as in the showroom. Rather than list the units in the warehouse, the supplier has decided to shut the casket showroom. In staff's opinion, the casket supplier has misunderstood the Rule. As noted above, only funeral providers are obligated to comply with the Rule. Thus, the casket supplier is under no obligation to prepare a casket price list. Under the Rule, however, Mr. McCullough, as a funeral provider, must present his customers with a casket price list when the subject of casket selection is raised. As noted above, it is staff's opinion that in the context of a casket supplier's showroom, the caskets listed need only be those in the showroom. However, if the funeral provider elects to offer the caskets in the warehouse for sale, then he must list them on the price list. Staff has notified the McCullough Funeral Home of our view that they misunderstood this requirement of the Rule.

[44] Statement of Basis and Purpose, (SBP) 47 FR 42260, at 42290 (September 24, 1982).

[45] *Id.*

[46] *Id.*

[47] CMAA, XXVII-24; and Bridge Casket Company, XXVII-13.

On the other hand, there are a number of policy arguments to be made in support of the interpretation that the Rule requires itemization of every good or service offered for sale. First, in issuing the Rule, the Commission found that:

> [I]t is an unfair and deceptive act or practice for a funeral provider to fail to furnish price information disclosing the cost to the purchaser for *each* of the specific funeral goods and funeral services used in connection with the disposition of dead human bodies, *including at least* the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations . . . ." [60]

One can argue that this language supports the conclusion that the Commission intended that funeral providers itemize the prices for *all* funeral goods and services offered, not just the specifically noted items.

Second, in the SBP, the Commission stated that the aim of the Rule was "to lower existing barriers to price competition and to facilitate informed consumer choice." [61] The Commission also noted that a specific goal of the Rule was to facilitate comparison shopping by consumers.[62]

The Commission found that the failure of funeral providers to provide price information resulted in unavoidable and substantial economic injury to consumers who paid supracompetitive prices for the items they purchased.[63] The Commission concluded that there existed " 'a striking absence of price competition in the funeral industry' . . . because consumers do not have access to price information." [64] These general policy statements are consistent with the position that the Rule's intent was to require funeral providers to make price information available to consumers so that they could comparison shop for *all* funeral goods and services and make informed choices. Without price information on the General Price List for other items,[65] the same barriers to price competition for these items would exist as before the Rule took effect, and consumers may still have to pay supracompetitive prices for those items.[66]

After careful consideration of the arguments in favor of requiring the itemization of every good and service offered for sale, and the arguments in support of limiting the itemization requirements to the funeral goods and services specifically enumerated in the Rule, staff has concluded that the latter argument is persuasive. In reaching this decision, staff has decided that the words "at least" together with the language in the SBP cited by SCI outweigh the policy arguments requiring itemization of all goods and services offered for sale. Therefore, staff has amended the guidelines to indicate that, at a minimum, funeral providers must itemize the goods and services specifically enumerated in the Rule and are permitted to disclose additional information or itemized prices if desired.

Finally, one party commented that the guidelines should state that funeral providers may not give greater itemization of the specific items than the categories specified by the Rule.[67] For example, the guidelines state that the price for use of a hearse does not have to be broken down into separate prices for loading, unloading, gasoline, etc. The commenter requested that the guidelines be modified to prohibit itemization of component costs. Staff disagrees. Such a position would prohibit the disclosure of detailed price information by funeral providers who desire to provide more information than the Rule requires. The guidelines clearly state what is required to comply with the Rule. Staff does not believe that it is in the public interest to prohibit a more detailed price disclosure.

(2) Information on the General Price List

NFDA requested that the sentence, "The list must be typed or printed and consumers must be given copies to keep," be changed to "The list must be typed or printed and consumers must be *provided* copies to keep" (emphasis added).[68] Staff disagrees. The word "given" is more appropriate because it denotes a physical offer. In addition, it is the word used in the Rule itself. As noted in illustration #4 under the section of the guidelines discussing distribution of the price list, the Rule requires that the funeral provider physically offer the price list to consumers.

b. *Forwarding and Receiving Remains, Direct Cremations and Immediate Burials:* CAFMS commented that the guidelines need to be clarified to ensure that the fee for professional services of funeral director and staff does not become a catch-all for goods and services not selected by a consumer.[69] Accordingly, staff has attempted to clarify that the professional services may not, by definition § 453.1(o)), include the other sixteen items that the Rule requires be separately itemized. In the context of this section of the guidelines, staff has clarified the fact that unlike the remainder of the available goods and services, the professional services charge should be included in those four types of offerings.

c. *Other Items Which Must be Itemized If Offered.*

(i) *Transfer of Remains to Funeral Home:* CAFMS again commented that the guidelines need to be clarified to ensure that the services associated with this item do not get "packaged" into the professional services of staff.[70] Staff agrees that further clarification will assist funeral providers in complying with the Rule. As noted above, § 453.1(o) specifically states that the services associated with each of the separately itemized offerings may not be included in the fee for the professional services of staff. Accordingly, the guidelines discussion of transfer of remains to funeral home has been modified to clarify this point.

f. *Charges For Professional Services of the Funeral Directors:* Again, CAFMS requested that this section of the guidelines be clarified to ensure that this item not include the services associated with the items the Rule requires be listed separately.[71] The guidelines' discussion of the professional services of the funeral director and staff has been modified accordingly.

(3) Illustrations Regarding the General Price List

(a) *Illustrations # 7, # 8, and # 9:* Three parties commented on the guidelines discussion of funerals for indigent persons. [72] These parties requested additional guidance on how a funeral provider can comply with the Rule when a governmental agency

[60] 16 CFR 453.2(a) (emphasis added).

[61] SBP, 47 FR at 42260.

[62] *Id.* at 42265.

[63] *Id.* at 42269–71.

[64] *Id.* at 42270.

[65] SCI's comment also suggested that price ranges for other items such as urns, flowers, and burial clothing "provide virtually no meaningful price information to the consumer." SCI at 7 n. 1. SCI's conclusion overlooks the fact that there are many "other" items for which detailed price information is necessary in order to facilitate informed choice and price competition.

[66] The Commission noted that price information would likely not be made available to consumers in any form other than the general price list, due to the "unique structural and demand characteristics of this industry . . . ." SBP, 47 FR at 42270.

[67] William C. Klein, XXVII–20.

[68] NFDA, XXVII–29, Comment No. 20.

[69] CAFMS, XXVII–27, at p.4.

[70] *Id.*

[71] *Id.*

[72] Guardian Funeral Homes, XXVII–11; CAFMS, XXVII–27, at p. 4; NFDA, XXVII–29, Comment No. 22.

added illustration #18 to the guidelines on this issue.

(10) *Illustration #19:* Another illustration suggested by NFDA for this section of the guidelines concerns whether a funeral provider is required by the Rule to offer a General Price List to a consumer during an arrangements conference when the discussion concerns the final illness, information for the death certificate, or social security benefits.[82] Staff does not believe that a General Price List would be required to be given to a family at that time because an inquiry has not yet been made about funeral arrangements or the prices of funeral goods or services. Illustration #19 discusses this issue.

(11) *Additional Suggested Illustration:* Finally, NFDA suggested that the guidelines allow funeral providers to allocate the cost of the professional services into each of the goods and services offered, rather than have a separate fee or incorporate the cost into the price of the caskets. In such a case, NFDA suggested that both of the disclosures required by § 453.2(b)(4)(iii)(c) would be misleading. Therefore, NFDA suggested that a substitute disclosure should be used informing the consumer that in purchasing any of the items, the price includes a fee for the use of the professional services. Staff believes that this proposal requests a substantive modification to the Rule and is therefore beyond the scope of the guidelines. Section 453.2(b)(4)(iii)(c) of the Rule clearly provides that the services of funeral director and staff must be disclosed either by a separate listing or by merging it into the price of the casket. The proposal by NFDA requests a third method of disclosure which is not permitted by the Rule. Accordingly, we have not incorporated this proposal into the guidelines.

F. Price Disclosures at the Conclusion of the Arrangements Discussion: Section 453.3(b)(5)

NFDA has commented on illustration #5 in this section of the guidelines which discusses the Rule's requirements when the funeral provider wants to use the Statement of Funeral Goods and Services Selected as a final bill.[83] Staff believes that NFDA's proposed answer is essentially the same as the present text and has decided to leave the answer as originally drafted.

G. Other Pricing Information: Section 453.2(b)(6)

NFDA has requested that an additional illustration be inserted in the guidelines regarding whether package prices need to be listed in writing on the General Price List.[84] NFDA's position is that such information need not be included on the price list. However, NFDA states that the prices must be available in writing at the funeral home. Staff agrees in part. In staff's opinion, package prices are not required to appear in writing at all. Section 453.2(b)(6) of the Rule permits funeral providers to give any other price information, in any other format, in addition to the price list requirements, so long as the Statement of Funeral Goods and Services Selected is given when required by the Rule. The issue raised concerns the interpretation of the phrase "in any other format." Staff believes that this phrase permits other methods of pricing, such as package or functional pricing, to be made orally or in writing. This interpretation is consistent with our position that the Rule requires funeral providers to list only the enumerated goods and services in § 453.2(b)(4) and that other written disclosures are permitted but not required.

IV. What Representations Are Prohibited? Section 453.3

A. Representations Concerning Embalming: Section 453.3(a)

Three parties commented on the Rule provisions prohibiting misrepresentation of embalming requirements.

CAFMS commented that the list of four circumstances in the introductory explanation of § 453.3(b) of the Rule is not complete and should include, for example, bequeathal to medical school.[85] Therefore, CAFMS suggested that the guidelines state that the list is not all inclusive or eliminate the list. Staff disagrees. This portion of the guidelines is designed to explain the provisions of § 453.3(a)(2)(i) of the Rule. The four items listed in the guidelines are the only four representations prohibited by that provision of the Rule. Therefore, staff believes that this portion of the guidelines is accurate and should remain as originally drafted.

CAFMS also commented that illustrations #2, #5, #6 should not discuss whether embalming is required by law or funeral home policy, but rather whether embalming can be recommended or is necessary under the circumstances set forth in the illustrations.[86] Staff disagrees. The relevant Rule provisions prohibit misrepresentations that embalming is required by law or funeral home policy in certain enumerated circumstances. Thus, a funeral provider may recommend embalming in any instance but can not misrepresent that it is required by law or funeral home policy. Therefore, illustrations #2, #5, and #6 should not be changed.

The New York State Funeral Directors Association requested that the guidelines discuss how funeral directors in New York State can comply with the Rule when it may conflict with New York State law.[87] Staff does not believe that this issue should be addressed in the guidelines. Staff is aware that New York State law requires different language from that required by the Funeral Rule. We are working with the New York State Department of Health and the New York State Funeral Directors Association to ensure compliance with both state and federal law. However, because the problem is relevant to only one state, it is not appropriate for discussion in the compliance guidelines.

The New York State Funeral Directors Association also requested staff's opinion regarding whether Jewish funeral homes may delete the embalming disclosures[88] if embalming is not furnished in a particular case.[89] The issue raised in the comment is distinct from the case where the firm does not offer embalming as a service at all. Rather, NYSFDA argues that the embalming disclosure required by the Rule will cause needless concern for families seeking traditional Jewish funeral services, because embalming is not permitted by the Jewish religion. While staff is sensitive to the concerns raised in this comment, it appears to involve a substantive modification of the Rule that is not appropriate for staff guidelines. Such an issue would be best considered in the context of an exemption request pursuant to section 18(g) of the FTC Act.

Finally, NFDA requested that an illustration be added to the guidelines stating that even if state law does not require embalming, a funeral provider may inform a family that embalming is required for funerals with a viewing.[90] Staff believes that this point

[82] NFDA, XXVII-29, Comment No. 35.
[83] NFDA, XXVII-29, Comment No. 26
[84] NFDA, XXVII-29, Comment No. 19.
[85] CAFMS, XXVII-27, at p. 5.
[86] *Id.*
[87] NYSFDA, XXVII-26, Comment No. 3.
[88] Sections 453.3(a)(2), 453.5(b)
[89] *Id.*
[90] NFDA, XXVII-29, Comment No. 24.

funeral provider does not offer for sale. To clarify this issue, staff has included illustration #10 under subsection B which states that a consumer's request for goods or services not offered for sale would be impractical to comply with.

(b) *Illustration #2:* This illustration states that a funeral provider who elects to make the professional service charge non-declinable and adds it to the cost of the casket may charge a fee for professional services to consumers who provide their own casket. NFDA states, in its comment, that under these circumstances, the funeral provider must include on the General Price List a listing for the service charge when the consumer provides a casket and indicate that in such event the service charge is non-declinable.[98] Staff agrees and has modified the response to illustration #2 in accordance with NFDA's suggestion.

(c) *Illustration #11:* PIAA and CAFMS requested staff's opinion on whether a funeral provider may insist that a consumer purchase funeral goods from the provider as a condition of providing the requested funeral services. For example, PIAA inquired whether it is a violation of the Rule for a funeral provider to indicate to a consumer who has acquired funeral goods elsewhere that the funeral provider will not perform the requested funeral services unless the consumer purchases the goods from them.[99] CAFMS requested an illustration stating that a funeral provider cannot insist that a consumer purchase a container from the provider in order to arrange for a direct cremation.[100] In staff's opinion, both situations raised by the commenters would violate § 453.4(b) of the Rule which prohibits a funeral provider from requiring consumers to buy unwanted goods and services in order to buy other requested goods and services. The situation raised by PIAA is already expressly discussed in the guidelines in illustration #3 in the discussion of who is covered by the Rule. Therefore, an additional illustration is not required in this section. We have, though, added illustration #11 which states that a funeral provider may not insist that a consumer who desires to arrange a direct cremation purchase the container from a funeral provider in order to receive the services.

(d) *Illustration #12:* NFDA has requested that three illustrations be added to the guidelines regarding required purchases. The first illustration would state that funeral providers can not have a basic facility charge that is a nondeclinable item because the Rule provides that only the professional services of staff and items required by state law can be nondeclinable items.[101] Staff agrees. Therefore, we have added illustration #12 to this section of the guidelines.

(e) *Illustration #13:* The second illustration requested by NFDA concerns whether a funeral provider can require a consumer who declines embalming to pay for other preparation of the body.[102] NFDA proposes that if a funeral provider separately lists other preparation of the body and the proposed use of this preparation procedure has been selected by the family, the funeral provider may charge for such services. Staff agrees. Under the Rule, funeral providers are required to list other preparation of the body as a separate item which may be selected by a consumer if desired. However, the consumer may not be required to purchase other preparation as a matter of funeral home policy, if embalming has been declined. Illustration #13 has been added to assist funeral providers in this fact situation.

(f) *Illustration #14:* The third additional illustration requested by NFDA regarding required purchases concerns whether a funeral home which operates a crematory in or about its premises serving a number of funeral providers can require that an unfinished wood box be used for cremations.[103] NFDA answers that such a requirement is not prohibited by the Rule. Staff agrees. A crematory operated either apart from or in conjunction with a funeral home is not prohibited under the Rule from imposing a requirement mandating the use of any container, other than a casket. Therefore, we have added illustration #14 to this section of the guidelines.

VI. Can a Fee Be Charged for Services Provided Without Prior Approval? Section 453.5

(a) *Illustration #7:* Four parties filed comments on the need to provide price information to consumers when requesting permission to embalm. John Henderson Company commented that this is unprofessional, unethical, and a "tacky" procedure[104] and asked that the Rule not require that funeral providers affirmatively quote the price for embalming when seeking permission to embalm but rather allow the price to be discussed during the arrangements conference, or if asked by the family when permission is sought. Don G. Hasson filed two similar comments, as an individual and in his capacity as president of the South Dakota Funeral Directors Association.[105] Mr. Hasson suggests that the proper time to discuss the price for embalming is during the arrangements conference. NFDA commented that funeral providers requesting permission to embalm by telephone are not required to disclose the price of embalming.[106] Staff has heard similar comments from funeral directors during our industry outreach campaign.

Section 453.5 of the Rule requires funeral providers to obtain permission to embalm for a fee unless embalming is required by state law. Section 453.2(b)(1)(b) of the Rule requires funeral providers to inform consumers that price information is available by telephone if the consumer calls and asks about the "terms, conditions, or prices" of funeral goods or services. In staff's opinion, if a funeral provider attempts to obtain permission to embalm by telephone and is asked questions about whether embalming is necessary, a "term, condition, or price" of a funeral service has been raised. During such telephone discussions the provider must inform the consumer that price information is available. If the consumer asks about the price, then the price must be disclosed. Illustration #7 has been added to the guidelines to advise funeral providers of staff's opinion on this point.

(b) *Illustration #8:* Similarly, § 453.2(b)(4) of the Rule requires funeral providers to offer a price list to consumers who inquire in person about "funeral arrangements". As noted earlier, the requirement to comply with the Rule is not limited to arrangements made within the funeral home. If funeral providers offer to sell funeral goods or services outside of the funeral home, they must be prepared to comply with the Rule when consumers inquire about arrangements or prices. In requesting permission to embalm, it is staff's opinion that the funeral provider is offering to sell a funeral service and triggering § 453.2(b)(4) of the Rule. Thus, a price list would need to be offered to the family. Staff has added illustration #8 to the guidelines to clarify this point.

(c) *Illustration #9:* NFDA has requested that an additional illustration be added stating that persons making pre-need contracts which authorize

[98] NFDA, XXVII-29, Comment No. 32.
[99] PIAA, XXVII-25, Point 8.
[100] CAFMS, XXVII-27, at p. 5.
[101] NFDA, XXVII-29, Comment No. 23(d).
[102] NFDA, XXVII-29, Comment No. 25.
[103] NFDA, XXVII-29, Comment No. 30.
[104] John Henderson Company, XXVII-22.
[105] Don G. Hasson, XXVII-21; South Dakota Funeral Directors Association, XXVII-16.
[106] NFDA, XXVII-29, Comment No. 33B.

CHAPTER 4610
DEPARTMENT OF HEALTH
MORTICIANS, FUNERAL DIRECTORS, AND THE DISPOSITION OF THE DEAD

NOTE: Under Minnesota Statutes, section 144.011, the State Board of Health was abolished and all of its duties transferred to the commissioner of health.

4610.0200 RESIDENT TRAINEE IN MORTUARY SCIENCE.
4610.0300 RESIDENT TRAINEE REGISTRATION.
4610.0400 MORTICIANS' QUALIFICATIONS.
4610.0500 LICENSE APPLICATION, RENEWAL, AND ENDORSEMENT FEES.
4610.0600 FUNERAL DIRECTORS.
4610.0700 COMMUNICABLE DISEASE DEATHS, PRIVATE FUNERALS.
4610.0800 REGULATIONS GOVERNING TRANSPORTATION OF THE DEAD
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4610.1100 TRANSPORTING DEAD BY AIRCRAFT.
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4610.1500 KIND OF CONVEYANCES PERMITTED.
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4610.1800 OUTSIDE CONTAINER.
4610.1900 OPENING OF SEALED CASKETS.
4610.2000 ASHES OF THE DEAD.
4610.2100 SERVING OF FOODSTUFFS IN FUNERAL ESTABLISHMENTS.
4610.2200 PERMIT FOR DISINTERMENT AND REINTERMENT.
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ITEMIZATION AND AUTHORIZATION TO EMBALM

4610.2400 DEFINITIONS.
4610.2500 ITEMIZATION OF FUNERAL COSTS.
4610.2600 AUTHORIZATION TO EMBALM.
4610.2700 FORM OF AUTHORIZATION TO EMBALM.

4610.0200 RESIDENT TRAINEE IN MORTUARY SCIENCE.

No person shall be permitted to register as a resident trainee until he shall have completed the first year of academic training as provided in Minnesota Statutes, section 149.03.

No service in mortuary science may be performed by a resident trainee except under the personal direction and in the presence of the licensed person under whom he is registered or under another licensed mortician in the same establishment.

No one may at one and the same time be registered under more than one mortician.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.0300 RESIDENT TRAINEE REGISTRATION.

Resident trainee registration with the commissioner of health shall show the date on which such traineeship began, the name and address of the mortician under whom he is registered, and the name and address of the company, corporation, or firm of which such mortician is the owner, partner, or employee. Discontinuance of such training or transfer to some other mortician for service as a trainee shall be immediately reported to the commissioner of health. The trainee shall file with the commissioner of health not less than 25 comprehensive case reports upon the forms provided by the commissioner. If the mortician under whom one is registered is not the owner or manager of the establishment in which such mortician and his trainee are working, then in such case all trainee case reports and all statements concerning the period of training, in addition to being signed by the mortician under whom registered, shall also be approved and signed by the employer of such mortician and trainee.

The application for the initial or renewal registration shall be accompanied by a $10 registration fee. The initial and renewal registration shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Renewal applications and fees shall be submitted no later than December 31 of the year preceding the year for which application is made.

Effective January 1, 1969, mortuary science trainee registration shall be permitted for no more than three years; provided, however, that for good cause the Committee of Examiners in Mortuary Science may extend the registration for an additional period not to exceed one year.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.0400 MORTICIANS' QUALIFICATIONS.

Subpart 1. **Requirements.** Every person who wishes to qualify as competent to engage in the practice of mortuary science shall comply with the following requirements.

Subp. 2. **License.** An applicant shall apply to the Minnesota commissioner of health for a license. The application shall contain the full name of the applicant, age, mailing address, and such other pertinent identifying information as the commissioner may require.

Subp. 3. **Age and education.** The applicant shall be at least 18 years of age and shall have successfully completed a minimum of 60 semester or 90 quarter credits at an accredited college or university with credit evaluation in course areas as follows: communications, 15 quarter credits to include speech and English, the social sciences, 18 quarter credits to include sociology and psychology; natural science, 21 quarter credits to include general or inorganic chemistry and biology or zoology; and elective areas, 36 quarter credits. Following this academic work, the applicant shall have completed and have secured a verification of completion of the prescribed course of study from any college of mortuary science accredited by the Conference of Funeral Service Examining Boards of U.S., Inc. or the American Board of Funeral Service Education.

Subp. 4. **Written examination.** After these education qualifications in the order specified have been acquired, the applicant shall attain a satisfactory level of achievement in a comprehensive examination, approved by the commissioner of health in such subjects related to the practice of mortuary science as the commissioner may prescribe. If an applicant for a license to practice mortuary science has satisfactorily passed the national board examination given by the Conference of Funeral Service Examining Boards of the U.S., Inc., and is so certified to the commissioner by the conference, effective January 1, 1976, the commissioner shall, subject to the criteria listed below, accept the results of the national board and require the applicant to successfully pass an examination on laws of the state of Minnesota and the rules of the commissioner pertaining to registration of deaths, embalming, transportation, disposition of dead human bodies and funeral directing. In order to accept the results of such national examination, the commissioner shall first determine that the knowledge and skills assessed by the examination adequately and accurately evaluate the knowledge and skills needed for actual job performance and ensure that the public is adequately served and protected. An applicant who fails to attain a satisfactory level of achievement on any examination given by or on behalf of the commissioner may be reexamined on application at the next examination.

Subp. 5. **Experience.** After successful completion of required examinations the applicant shall serve at least one year as a trainee in mortuary science under a mortician licensed by the state of Minnesota. During such period of experience the applicant shall be registered as a trainee in mortuary science with the commissioner and shall assist under the supervision of a mortician in embalming at least 25 bodies and in the direction of at least 25 funerals.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.0500 LICENSE APPLICATION, RENEWAL, AND ENDORSEMENT FEES.

Subpart 1. **Examination fee.** An applicant for examination for a license in mortuary science, shall submit an application therefor on forms provided by the commissioner of health together with a fee of $25.

Subp. 2. **License fee.** When the applicant has successfully completed the examination and requirements for original license, the applicant shall submit to the commissioner a license application on a form prescribed by the commissioner and a fee of $25 payable to, the treasurer, state of Minnesota, after which the license shall be duly issued.

Subp. 3. **License by endorsement.** An applicant for a license in mortuary science by endorsement without examination as to technical qualification pursuant to Minnesota Statutes, section 149.03, subdivision 2, shall submit an application therefor on forms provided by the commissioner of health together with a fee of $75. The applicant shall prior to licensure pass an examination on the Minnesota laws and rules relating to mortuary science only.

Subp. 4. **Courtesy card.** An applicant for a mortuary science courtesy card, issued pursuant to Minnesota Statutes, section 149.03, subdivision 2, shall submit an application therefor on forms provided by the commissioner of health together with a fee.

Subp. 5. **License issuance and renewal.** Initial and renewal mortuary science licenses or courtesy cards shall be issued for the calendar year for which application is made and shall expire on December 31 of that year.

Renewals thereof shall be obtained on an annual basis. Application for license or courtesy card renewal, together with the renewal fee of $25 shall be submitted to the commissioner of health on forms provided no later than December 31 of the year preceding the year for which application is made. Failure to submit the renewal application and fee by the date specified above shall result in an increase in the fee to $35. If the renewal application and fee are not submitted within 31 days after the expiration date, the license or courtesy card shall automatically lapse. Such persons shall be required to apply for a new license and meet all the requirements therefor.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.0600 FUNERAL DIRECTORS.

Subpart 1. **Licensing requirement.** Every person who wishes to qualify as competent to engage in the practice of funeral directing, under Laws of Minnesota 1959, chapter 395, shall comply with the following requirements.

Subp. 2. **Application content and affidavit.** He shall make application to the Minnesota commissioner of health for a license. Such application shall contain the name of the applicant in full, age, and place of residence. It shall be accompanied by affidavits from at least two reputable residents of the county in which the applicant resides certifying that the applicant is of good moral character. The applicant shall also submit two affidavits from ordained religious leaders of his faith substantiating the beliefs and convictions of the applicant's faith which forbids the practice of embalming.

The applicant shall be at least 21 years of age, shall have satisfactorily completed at least two years at an accredited college or university with approximate credit evaluation in course areas as follows: speech and English, 15 quarter credits; the social sciences, 16 quarter credits; natural science, 27 quarter credits; and elective areas, 32 quarter credits. Following such academic work applicants shall have completed a course of study at the Department of Mortuary Science at the University of Minnesota or any school of mortuary science accredited by the American Board of Funeral Service Education.

Such courses to include a minimum of 21 quarter credits in mortuary management, 29 quarter credits in the mortuary arts and sciences exclusive of any courses in embalming theory and practice.

After the educational qualifications in the order herein specified have been acquired, the applicant shall have served at least one year as a trainee in funeral directing under a Minnesota licensed mortician. During the period of practical experience or traineeship the applicant shall have been registered as a trainee in funeral directing with the commissioner of health and shall have assisted under supervision in the direction of at least 25 funerals. The applicant shall attain a satisfactory level of achievement in a comprehensive written examination given by the commissioner of health in such subjects as anatomy, bacteriology, business methods, chemistry, mortuary management, pathology, public health laws and regulations, and the practice of funeral directing. At the discretion of the commissioner, a practical examination in funeral directing may also be required. An applicant who fails to attain a satisfactory level of achievement may be reexamined on application at the next annual examination.

Subp. 3. **Application for license.** An applicant for a funeral directors license, by examination, shall submit an application therefor on forms provided by the commissioner of health together with a fee of $25.

Subp. 4. **Renewal.** Initial or renewal funeral director licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Renewals thereof shall be obtained on an annual basis. Applications for license renewal, together with the renewal fee of $25, shall be submitted no later than December 31 of the year preceding the year for which application is made. Failure to so submit the renewal application and fee within 31 days of the date specified above shall result in an automatic lapse in the license which shall not thereafter be reinstated.

Subp. 5. **Funeral establishment permit.** Applications for an original or renewal permit to operate a funeral establishment shall be submitted on forms provided by the commissioner of health together with a fee of $35. Original permits shall be effective from the day of issuance to the next June 30. Renewal permits shall be issued on an annual basis from July 1 to June 30 of the following year. Failure to submit the renewal application and fee by the expiration date shall result in an increase in the fee to $45. If the renewal application and fee are not paid within 31 days after the expiration date, the permit shall automatically lapse.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.0700 COMMUNICABLE DISEASE DEATHS, PRIVATE FUNERALS.

Only morticians shall be permitted to take charge of the remains of persons who have died of any communicable disease. When such body is to be shipped, preparation shall be in accordance with part 4610.1000.

The funeral shall be strictly private when the death has been due to diphtheria or smallpox. In the case of a smallpox death the casket shall be hermetically or permanently sealed.

A private funeral allows only the presence of those individuals who have been in immediate contact with the deceased within 21 days before the death occurred, the morticians, and a minister who shall be present only when the morticians in charge of the funeral are also present and who shall be directed by the morticians as to the precautions to be taken. If individuals who have been in such immediate contact with the deceased are not to be present at the funeral a private funeral need not be held. Attendance at interment is limited to those enumerated herein.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.0800 REGULATIONS GOVERNING TRANSPORTATION OF THE DEAD.

When a dead human body is transported by common carrier to a destination outside the state, it shall be embalmed and transported in accordance with the transportation regulations of the commissioner of health. The transportation of dead human bodies shall be governed by the transportation regulations adopted by the Minnesota commissioner of health. Only a mortician licensed to engage in the practice of mortuary science shall call for and embalm the body of a person whose death is caused by a disease listed as communicable in part 4610.1000. Following preparation of the body by embalming, either a mortician or a funeral director shall have charge of such body for the purposes of transportation and final disposition.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.0900 TRANSPORTATION PERMIT.

A burial-removal-transit permit shall be required for each dead human body transported by common carrier, and in all cases when transported by automobile, aircraft, or any other conveyance in lieu of common carrier. It shall be issued by the local registrar of the place of death or a subregistrar or, if necessary to avoid delay, by the state registrar.

It shall contain the information required on the permit form as furnished by the commissioner of health and be properly signed by the local registrar or a subregistrar, the mortician or funeral director, and the person in charge of the conveyance. When the cause of death is a communicable disease the permit shall be signed by the mortician who prepared the body. Where a firm name is used in the signing of the burial-removal-transit permit it shall be supported by the personal signature of a licensed member of the firm.

The burial-removal-transit permit may be given to the person in charge of the remains, or attached to the shipping container, and in either case delivered with the body at the destination to the sexton or other person in charge of the cemetery, or to the health officer in cities that have local ordinances requiring burial permits by him in all cases.

Officials, agents, and employees of all public transportation facilities throughout the state of Minnesota shall not receive for transportation a dead human body unless the body is accompanied by a burial-removal-transit permit properly completed and signed.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1000 TRANSPORTING DEAD OF ANY COMMUNICABLE DISEASE.

Subpart 1. **Communicable diseases.** The removal and transportation of bodies dead of the following communicable diseases shall be permitted only under the conditions in subparts 2 to 4:

Actinomycosis
Anthrax
Botulism
Brucellosis (Undulant Fever)
Chickenpox (over 16 years of age)
Cholera, Asiatic
Conjunctivitis, Epidemic
Gonorrhea
Hepatitis, Infectious
Hepatitis, Serum
Mononucleosis, Infectious
Ophthalmia Neonatorum
Paratyphoid Fever
Diarrhea, Epidemic
Diptheria
Dysentery
(a) Amebic
(b) Bacillary
Encephalitis (all types)
Glanders
Syphilis
Trachoma
Trichinosis
Influenza
Leprosy
Leptospirosis

Plague
Pneumonia
Poliomyelitis
Psittacosis
Rabies
Rheumatic Fever
Ringworm of the Scalp
Rocky Mountain Spotted Fever
Smallpox
Streptococcal Diseases, including Scarlet Fever and Epidemic Sore Throat
Malaria
Measles
Meningitis (all types)
Tuberculosis
Tularemia
Typhoid Fever
Typhus Fever
Whooping Cough (Pertussis)
Yellow Fever

Subp. 2. **Covering body before removal.** Before removal by any of the conveyances authorized by part 4610.1500, other than by common carrier, the body shall be properly covered and encased in a zipper pouch, bag, or waterproof sheet and transported in a standard mortuary basket, a regulation ambulance cot, or on an aircraft ambulance stretcher. All sanitary precautions in the preparation for removal and in the removal shall be observed for the protection of the public health.

Subp. 3. **Embalming.** In all cases of communicable disease deaths the body shall be embalmed as soon as practicable, and when the destination will not be reached within 18 hours after death, the body shall be thoroughly embalmed before transportation. Embalming shall include both arterial and cavity treatment, all orifices and discharging sinuses closed with absorbent cotton and the body washed with a disinfecting fluid.

Subp. 4. **Common carrier use.** When a common carrier is to be used, embalming is mandatory and both a casket and an outside container shall be provided.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1100 TRANSPORTING DEAD BY AIRCRAFT.

The transportation of human dead bodies by aircraft shall be permitted under the following conditions.

When the destination is outside the state, a body transported by aircraft shall be first thoroughly embalmed. It may be transported in a standard mortuary basket, on a regulation ambulance cot, or aircraft ambulance stretcher. When transported by common air carrier it shall be enclosed in a casket and tight outside container.

Where a death caused by a disease listed as communicable in part 4610.1000 occurs in a remote and inaccessible locality, the body in an emergency may be brought by aircraft to the nearest point having facilities and there thoroughly embalmed and prepared, as provided in these rules, before being transported further by aircraft.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1200 TRANSPORTING DEAD OF NONCOMMUNICABLE DISEASE.

The transportation of human bodies dead of noncommunicable disease shall be permitted under the following conditions:

A. When the destination will be reached within 18 hours after death, the body shall be enclosed in a casket and a tight outside container. When transportation is to be made by automobile or aircraft, the outside container may be omitted, or the casket and outside container may both be omitted, and in such case the body shall be properly covered and encased in a zipper pouch, bag, or waterproof sheet and transported in a standard mortuary basket, on a regulation ambulance cot, or on an aircraft ambulance stretcher.

B. When the destination will not be reached within 18 hours after death, the body shall be thoroughly embalmed and shipped in accordance with the provisions in item A.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1300 TRANSPORTING DISINTERRED BODIES.

No disinterred body dead from any disease or cause shall be transported unless approved, as is required by parts 4610.2400 to 4610.2700, by the health authorities having jurisdiction. A burial-removal-transit permit signed by the local registrar or a subregistrar, as provided in part 4610.0900, is required.

All disinterred remains shall be enclosed in a sound, tight box and not thereafter opened, provided that bodies in a receiving vault when prepared by morticians shall not be regarded as disinterred bodies unless the health officer so rules. In townships having no physician as medical health officer for the township, a body shall be regarded as disinterred after the expiration of 30 days from the time of death.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1400 TRANSPORTATION INAPPLICABLE TO CORONER.

The rules of the commissioner of health which control the transportation of dead human bodies do not apply to the coroner in the performance of the duties of his office as prescribed by Minnesota Statutes, chapter 390.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1500 KIND OF CONVEYANCES PERMITTED.

In the transportation of any dead body the following conveyances may be used: baggage or express car, boat, hearse, ambulance, any standard automobile properly designed and manufactured for the transportation of dead human bodies, any wagon or sleigh, or airplane. All such conveyances or vehicles shall have ample area to accommodate a standard mortuary basket, a regulation ambulance cot, or aircraft ambulance stretcher in a horizontal position and shall be so designed as to permit loading or unloading without excessive tilting of the cot or basket.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1600 MOVING BODIES LOCALLY.

When the transportation rules do not apply, embalming is not required if the body is to be buried within 72 hours after death.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1700 ARSENICAL EMBALMING FLUIDS.

No embalming fluid containing compounds of arsenic, mercury, zinc, or other poisonous metals shall be sold or used in Minnesota for or in the embalming of dead human bodies for burial.

Provided that in case it appears necessary to hold a dead human body for 30 days or more before burial, the county coroner after an investigation by him as to the cause of death may issue a written order permitting the use of compounds of arsenic, mercury, zinc, or other poisonous metals in the preservation of such body.

In the shipment of the dead in Minnesota when embalming is carried out, the fluid shall be of a quality and used in sufficient quantity to properly embalm the body.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1800 OUTSIDE CONTAINER.

Every outside container shall bear at least four handles and when over five feet six inches in length shall bear six handles.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.1900 OPENING OF SEALED CASKETS.

The opening of hermetically sealed caskets containing disinterred remains of persons dead from any cause and shipped for burial in Minnesota is hereby forbidden except when so ordered by a court of competent jurisdiction.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.2000 ASHES OF THE DEAD.

Cremation of a dead human body shall be considered as a final disposal of that body. No additional permit covering transportation, interment, or other disposal of ashes of a cremated body, or concerning the kind of container in which such ashes are placed for preservation or transportation is required.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.2100 SERVING OF FOODSTUFFS IN FUNERAL ESTABLISHMENTS.

In the interest of safeguarding public health, safety, welfare, and sanitation, the serving of food to the public in a funeral establishment is prohibited. For the purpose of this part, beverages served in single use disposable containers shall not be considered food.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.2200 PERMIT FOR DISINTERMENT AND REINTERMENT.

No person except a mortician, and then only after first having obtained a permit therefor from the local health officer and the local registrar or a subregistrar, as hereinafter prescribed, shall disinter the body of a deceased person; provided, the authorities in charge of a cemetery may transfer bodies buried therein from one part of such cemetery to another part thereof with the approval and under supervision of the local health officer. Any person desiring such a permit shall first secure from the actuary or secretary or other person in charge of the cemetery records a written statement showing that such body is buried in that cemetery and giving thereon the name of deceased, age at the time of death, date of death, cause of death, and date of burial. He shall present this statement to the proper local health officer and make application for permission to disinter and remove such body.

Provided, if there is no such cemetery record then such statement by relatives of the deceased or other competent person or persons who are empowered to cause such disinterment and removal shall be presented. Provided further, if the health officer has cemetery records of the cemeteries in his municipality and a record of such interment, no such written statement need be secured or filed with him.

The local health officer shall question the applicant as to the manner in which it is proposed to disinter, handle, and dispose of the remains, and shall give and enforce such directions for disinterment, removal, and reinterment as he deems necessary for the protection of the public health. Such local health officer shall thereafter notify the local registrar or subregistrar orally or in writing if he has approved such application. The applicant shall thereupon apply to the registrar or to a subregistrar, who shall issue in duplicate a written disinterment-reinterment permit, using for such purpose the burial-removal-transit form now provided by the commissioner of health for original interments and noting thereon the words "disinterment-reinterment permit."

The mortician shall furnish the sexton or person in charge of any cemetery, burial place, or other premises in which the disinterment is made, a duplicate copy of the disinterment-reinterment form. The sexton in charge of the final resting place shall not inter or permit the interment or other disposition of the disinterred body of a deceased person until he receives a disinterment-reinterment permit.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.2300 SANITARY CONDITION OF ~~MORTUARIES.~~ FUNERAL ESTABLISH

Subpart 1. **Mortuary defined.** A funeral home, mortuary, or funeral directing establishment is a facility approved by the commissioner and devoted to or used for, or held out to the public as a place for the care, preparation, or repose prior to burial or transportation of dead human bodies; or for the conducting of funeral services. However, these definitions are not applicable to any facility operated by a person holding a single license as funeral director as provided in Minnesota Statutes 1957, section 149.02.

Subp. 2. **Preparation room.** All mortuaries and funeral directing establishments shall be maintained in a sanitary manner at all times. A properly lighted and ventilated preparation room shall be provided in every mortuary or funeral directing establishment. It shall have a tile, terrazzo, concrete, composition, or linoleum-covered floor which shall be kept in a smooth and easily cleanable condition and made free and clear of dust, dirt, refuse, and other contaminations. The operating or embalming table shall have a tile, metal, or other hard surface sanitary top. The floors and walls of the preparation room and all embalming or dressing tables, portable couches, cooling boards, and transfer cases shall be kept in a clean and sanitary condition.

Subp. 3. **Embalming room.** The operating or embalming room shall be provided with an adequate water supply. Liquid waste from the operating or embalming tables shall be directed to an open fixture which is properly vented and connected to the building drainage system. Where a municipal sewerage system is available, the building drainage system shall be discharged into the municipal sewage system; where such a system is not available, the building drainage system must be discharged into a satisfactory private system of waste disposal. There shall be no connection or other arrangement from any plumbing fixture or device whereby unsafe water or other foreign material may be discharged or drawn into a safe water supply. Every plumbing fixture, receptacle, and water supply tank shall be provided with a proper air gap or other acceptable device to prevent backflow into the water supply.

Subp. 4. **Removal of waste.** Refuse, bandages, cotton, and other wastes shall be collected in proper and convenient receptacles which shall be provided in the operating and preparation rooms. All such waste shall be destroyed by incineration and all embalming tables, hoppers, sinks, receptacles, instruments, and other appliances used in the embalming of dead human bodies shall be thoroughly cleaned immediately after the preparation of the case is completed.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

ITEMIZATION AND AUTHORIZATION TO EMBALM

4610.2400 DEFINITIONS.

Subpart 1. **Application.** For the purposes of parts 4610.0200 to 4610.2700, the words, terms, and phrases listed in this part shall have the meaning stated herein, unless the language and context clearly indicates that a different meaning is intended.

Subp. 2. **Burial vault/interment receptacle.** "Burial vault/interment receptacle" means an outer container used to enclose the casket for earth burial.

Subp. 3. **Cash advanced items.** "Cash advanced items" means items of merchandise and services provided by other than the mortician, funeral director, or funeral establishment, the liability for which is incurred by the mortician, funeral director, or funeral establishment on behalf of the funeral arranger and listed on the itemization form.

Subp. 4. **Casket.** "Casket" means a container commonly used to enclose a dead human body for the purposes of the funeral and final disposition.

Subp. 5. **Cremation/calcination.** "Cremation/calcination" means the use of direct flames or intense heat to reduce the dead human body to ashes and inorganic bone fragments.

Subp. 6. **Destination.** "Destination" means the city or town of final disposition.

Subp. 7. **Disposal unit.** "Disposal unit" means a container other than a casket used for burial, cremation, calcination, or entombment of a dead human body.

Subp. 8. **Embalming.** "Embalming" means a process of chemically treating the dead human body to reduce the presence and growth of organisms, to retard organic decomposition and to restore an acceptable physical appearance.

Subp. 9. **Funeral.** "Funeral" means the rites or ceremonies connected with the final disposition of a dead human body with the body present.

Subp. 10. **Funeral service merchandise.** "Funeral service merchandise" includes such items as clothing, register books, cards, and religious and fraternal items necessary to the conduct of the service.

Subp. 11. **Preparation of the body.** "Preparation of the body" includes such items of care as the setting of features, restorative procedures, washing, disinfecting, care of hair, shaving, dressing, and casketing.

Subp. 12. **Professional services.** "Professional services" includes the provision of staff for arrangements, visitations, funeral, memorial service when the body is not present, final disposition, and administrative services such as counseling, securing, and preparing necessary documents.

Subp. 13. **Transportation costs.** "Transportation costs" includes the vehicle used for the initial transfer of the deceased, funeral coach, funeral sedans, flower car, service/utility car, and the use of common carriers where needed.

Subp. 14. **Use of facilities.** "Use of facilities" means:

A. provision of chapel or room for the funeral or memorial service and/or provision of facilities for parking, counseling offices, and other administrative purposes; and

B. provision of chapel or room for visitation/reviewal.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.2500 ITEMIZATION OF FUNERAL COSTS.

Before final agreement is reached between the client and funeral establishment the mortician or funeral director shall give or cause to be given to the person(s) making arrangements, a written disclosure with the items and costs listed separately as required by Minnesota Statutes, section 149.09, subdivision 1.

As a minimum the disclosure shall include a statement of charges for casket, burial vault, use of facilities for reviewal, use of facilities for funeral services, specifically itemized transportation costs, specifically itemized funeral service merchandise, embalming, preparation of the body, other professional services, and anticipated cash advances and expenditures. When cremation is to be the method of final disposition the disclosure shall have printed in conspicuous print: "Minnesota law does not require that remains be placed in a casket before or at the time of cremation."

A copy of the itemized statement (funeral expense contract) shall be given the person(s) making funeral arrangements. The contract shall be signed by

both parties and the funeral establishment shall retain a copy for three years thereafter.

If the charge for any item is not known at the time the contract is entered into, the establishment representative shall give his/her best estimate of the charges and advise the purchaser(s) of the exact charge as soon as the information becomes available.

No funeral establishment shall bill or cause to be billed any item that is referred to as a "cash advanced" item unless the net amount paid for such item or items by the funeral establishment is the same as is billed to the funeral establishment. The term "net" is not meant to include any discounts that may be allowed for prompt payment by the funeral establishment.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.2600 AUTHORIZATION TO EMBALM.

Written authorization for embalming a dead human body shall be obtained from the person lawfully entitled to custody of the body or from the individual prior to his/her death.

Oral permission shall constitute approval to proceed with embalming, however, the establishment representative must specifically use the term "embalm" in securing oral permission. Written authorization shall be obtained as soon as practicable.

Upon request the mortician or funeral director shall explain the requirements of parts 4610.0800 to 4610.1600 which in some instances mandate embalming and make available a copy of parts 4610.0800 to 4610.1600. When embalming is required as provided in parts 4610.0800 to 4610.1600, permission to embalm shall, as a matter of law, be implied.

The written authorization shall be retained in the establishment record of the deceased for three years and a copy made available to the person(s) granting authority.

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

4610.2700 FORM OF AUTHORIZATION TO EMBALM.

The written authorization statement shall be as follows:

Authorization to Embalm

I authorize _____and its staff, agents or representative to embalm the body of _____. I am a relative of the deceased and/or am entitled to custody of the deceased. I understand that embalming is not required by Minnesota law except as provided by parts 4610.0800 to 4610.1600.

1) The deceased is to be sent out of state by common carrier or aircraft,

2) Death is due to communicable disease,

3) More than 18 hours will elapse from time of death to arrival at the destination, or

4) Final disposition of the deceased is longer than 72 hours after death.

_____

name, relationship

_____

name, establishment representative

Statutory Authority: *MS s 144.12 subd 1; 144.122; 149.02*

5

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Amendments to Chapter 4610 Department of Health Rules Pertaining to Morticians, Funeral Directors, and the Disposition of the Dead

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Robert T. Holley, do hereby declare that I have examined the above-captioned rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed without any exceptions.

Dated: april 25, 1986

Robert T. Holley

ROBERT T. HOLLEY
Special Assistant
Attorney General

To:

Date: 4.30.86

Re: Dept. of Health - Health, Morticians, Funeral Directors, Fees and Licensing.

Rules as Adopted

F

p.4, line 2 .0500, subp. 2.

While technically not subject to our review, we could point out that requiring fees to be made payable to the treasurer is out of date. Fees are now payable to the agency.

p.17, line 10 .2400, subp. 3

This section lists certain items in a definition but contains the phrase "may include but not limited to" without restrictive criteria. OK - criteria won

To Bob Holley –

① pg 4, line 1-2 - treasu no auth

OK ② pg 5 line 28-29 discretion

17, line 28 ③ pg 14 line 10 - ; where is criteria ? include but not limited to

④ pg 15, line 35 - other

don't criteria simply

criteria address

delete

- others forms of transportations

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

April 24, 1986

Office of the Minnesota Attorney General
204 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Attention: Judith Wehrwein

Re: In the Matter of Amendments to Chapter 4610 Department of Health Rules Pertaining to Morticians, Funeral Directors, and the Disposition of the Dead

Dear Ms. Wehrwein:

Enclosed for your review under Minn. Stat. § 14.26 (Supp. 1985) and Minn. Rules pt. 2000.0400, subps. 1-6 are the following documents in the above subject noncontroversial rulemaking proceeding:

1. notice of intent to solicit outside opinion and written material received;

2. order for notice of intent to adopt rules without a public hearing;

3. mailing list certificate, with a copy of the list attached;

4. statement of need and reasonableness, with exhibit attachments;

5. certificate of compliance with rulemaking procedures;

6. notice of intent to adopt rules without a public hearing, together with the State Register publication of the notice and of the rule as proposed;

7. affidavit of mailing notice of intent to adopt rule without a public hearing;

8. rule as adopted (4 copies);

9. order adopting rule.

an equal opportunity employer

Please note that no written comments or requests for a hearing were received in response to the notice of intent to amend rules without a public hearing, that no one requested notice of this submission to the Attorney General, and that the rule as adopted is precisely identical to the rule as proposed. Further, the requirements of Minn. Rules pt. 2000.0400, subp. 1.A, D, F, and H are not believed to be applicable to this proceeding.

If there are any questions about the amendments or if anything further may be required relative to your review, please call me (623-5655) or Bob Holley (341-7272) at your earliest convenience.

Sincerely,

David F. Schwietz

David F. Schwietz
Mortuary Science Unit

DFS:sv

Enclosures

cc: Bob Holley