

AMENDED IN ASSEMBLY MAY 10, 1995
AMENDED IN ASSEMBLY APRIL 25, 1995
AMENDED IN ASSEMBLY MARCH 30, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 597

Introduced by Assembly Member Speier

February 17, 1995

An act to repeal Chapter 19 (commencing with Section 9600) of Division 3 of, and to repeal and add Chapter 12 (commencing with Section 7600) of Division 3 of, the Business and Professions Code, relating to interment.

LEGISLATIVE COUNSEL'S DIGEST

AB 597, as amended, Speier. Preneed funeral arrangements.

Existing law, the Funeral Directors and Embalmers Law, provides for the licensure and regulation of funeral directors and embalmers by the State Board of Funeral Directors and Embalmers. The Cemetery Act provides for the regulation of cemeteries by the Cemetery Board.

This bill would repeal those provisions and enact the Funeral and Cemetery Services Act of 1995. The bill would revise, recast, and consolidate the above provisions into the act and create the Board of Funeral and Cemetery Services. The bill would make conforming changes.

Since a violation of various provisions of the bill would be a misdemeanor, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 12 (commencing with Section
2 7600) of Division 3 of the Business and Professions Code
3 is repealed.

4 SEC. 2. Chapter 12 (commencing with Section 7600)
5 is added to Division 3 of the Business and Professions
6 Code, to read:

7
8 CHAPTER 12. STATE BOARD OF FUNERAL AND CEMETERY
9 SERVICES

10
11 Article 1. Citation and Application of Chapter

12
13 7600. (a) This chapter constitutes the chapter on
14 funeral and cemetery services. It shall be known and may
15 be cited as the “Funeral and Cemetery Services Act of
16 1995.”

17 (b) This chapter shall remain in effect only until
18 January 1, 2000, and as of that date is repealed, unless a
19 later enacted statute, which is enacted before January 1,
20 2000, deletes or extends that date.

21 7601. Effective January 1, 1996, this chapter governs
22 the licensure of persons formerly licensed by the
23 Cemetery Board and the Board of Funeral Directors and
24 Embalmers.

25 7602. The State Board of Funeral and Cemetery
26 Services shall succeed to the powers and authorities



1 previously vested with the Cemetery Board and with the
2 Board of Funeral Directors and Embalmers. The State
3 Board of Funeral and Cemetery Services shall assume all
4 investigations, inquiries, disciplinary actions, or
5 proceedings pending before the Cemetery Board and the
6 Board of Funeral Directors and Embalmers at the time
7 of merger.

8 7603. An application pending for examination or
9 licensure under the Cemetery Act or the Funeral
10 Directors and Embalmers Law as of January 1, 1996, shall
11 be deemed filed with the State Board of Funeral and
12 Cemetery Services and considered for examination and
13 licensure in accordance with the provisions of this
14 chapter.

15 7604. On and after January 1, 1996, a license issued
16 pursuant to the Cemetery Act or the Funeral Directors
17 and Embalmers Law shall be deemed a license issued by
18 the State Board of Funeral and Cemetery Services.

19 7606. (a) Revenue collected under the Cemetery
20 Act or the Funeral Directors and Embalmers Law and
21 held in their respective contingent funds shall be
22 transferred to the State Board of Funeral and Cemetery
23 Service Fund as established by this chapter.

24 (b) Money received by the State Board of Funeral and
25 Cemetery Services under the provisions of this chapter
26 shall be accounted for and reported by detailed
27 statements furnished by the board to the Controller at
28 least once a month. This money shall be remitted to the
29 Treasurer, and, upon order of the Controller, shall be paid
30 into the State Treasury to the credit of the State Board of
31 Funeral and Cemetery Services Fund, which is hereby
32 created.

33 (c) All money paid into the State Treasury and
34 credited to the State Board of Funeral and Cemetery
35 Services Fund shall be expended in accordance with law
36 for payment of the actual and necessary expenses
37 incurred in carrying out the provisions of this chapter.

38 7607. A provision of this chapter insofar as it is
39 substantially the same as an existing statutory provision
40 relating to the same subject matter shall be construed as



1 a restatement and continuation thereof, and not as a new
2 enactment.

3 7608. An action or proceeding commenced before
4 this chapter takes effect, and a right accrued, is not
5 affected by the provisions of this chapter, but all
6 procedures shall conform to the provisions of this chapter
7 so far as possible.

8 7609. A right given by a license or certificate under an
9 act repealed by this chapter is not affected by the
10 enactment of this chapter or by the repeal, but this right
11 shall be exercised according to the provisions of this
12 chapter.

13 7610. A person, who, at the time this chapter goes into
14 effect, is entitled to a license under an act repealed by this
15 chapter, is entitled to a license under the provisions of this
16 chapter so far as the provisions of this chapter are
17 substantially the same.

18 7611. A conviction for a crime under the Cemetery
19 Act or the Funeral Directors and Embalmers Law as of
20 December 31, 1995, shall constitute a conviction under
21 this chapter.

22 7612. This chapter does not apply to, or in any way
23 interfere with, the duties of any officer of any public
24 institution or of any duly accredited medical college, nor
25 does it apply to any hospital licensed pursuant to Chapter
26 2 (commencing with Section 1250) of Division 2 of the
27 Health and Safety Code, or anyone engaged only in
28 furnishing burial receptacles.

29

30 Article 2. Definitions

31

32 7615. (a) The definitions in this article govern the
33 meaning of terms used in this chapter unless otherwise
34 provided expressly or by necessary implication.

35 (b) The definitions in Division 7 (commencing with
36 Section 7000) and Division 8 (commencing with Section
37 8100) of the Health and Safety Code are applicable to this
38 chapter.

39 7616. "Act" means the Funeral and Cemetery
40 Services Act of 1995.



1 7617. “Board” means the State Board of Funeral and
2 Cemetery Services.

3 7618. “Fund” means the State Board of Funeral and
4 Cemetery Services Fund.

5 7619. A “funeral director” means a person,
6 partnership, association, corporation, or other
7 organization engaged in or conducting, or holding
8 himself, herself, or itself out as engaged in any of the
9 following:

10 (a) Preparing for the transportation or burial or
11 disposal, or directing and supervising for transportation
12 or burial or final disposition of human remains.

13 (b) Maintaining an establishment for the preparation
14 for the transportation or disposition or for the care of
15 human remains.

16 (c) Using, in connection with his or her or its name or
17 funeral establishment, the words “funeral director,”
18 “undertaker,” “mortician,” or any other title implying
19 that he or she or it is engaged as a funeral director.

20 7620. “Funeral establishment” means a place of
21 business conducted in a building or separate portion of a
22 building having a specific street address or location and
23 devoted exclusively to activities as are incident,
24 convenient, or related to the preparation and
25 arrangements, financial and otherwise, for the funeral,
26 transportation, burial, or other disposition of human dead
27 bodies and including, but not limited to, any of the
28 following:

29 (a) A suitable room for the storage of dead human
30 bodies.

31 (b) A suitable preparation room equipped with a
32 sanitary flooring and necessary drainage and ventilation
33 and containing necessary instruments and supplies for
34 the preparation, sanitation, or embalming of human dead
35 bodies for burial or transportation.

36 7621. “Embalmer” means a person who is duly
37 qualified to disinfect or preserve dead human bodies by
38 the injection or external application of antiseptics,
39 disinfectants, or preservative fluids; to prepare human
40 bodies for transportation that are dead because of



1 contagious or infectious diseases; and to use derma
2 surgery or plastic art for restoring mutilated features; and
3 who is duly licensed as an embalmer under the laws of the
4 State of California.

5 7622. “Apprentice embalmer” means a person
6 engaged in the study of the art of embalming under the
7 instruction and supervision of a regularly licensed
8 embalmer who has had at least two years’ practical
9 experience as a California licensed embalmer.

10 7623. “Preneed trust agreement” means a contract
11 that allows the purchase of funeral services in advance of
12 need.

13 7624. (a) “Original cemetery broker’s license”
14 means a cemetery license issued to a person who did not
15 have a cemetery broker’s license on June 30 of the fiscal
16 year previous to the fiscal year for which the license is
17 issued.

18 (b) “Renewal cemetery broker’s license” means a
19 cemetery license issued to a person who had a cemetery
20 broker’s license unrevoked and unsuspended on June 30
21 of the fiscal year previous to the fiscal year for which the
22 renewal cemetery license is issued.

23 7625. (a) “Original cemetery sales agent’s license”
24 means a cemetery license issued to a person who did not
25 have a cemetery sales agent’s or a broker’s license either
26 individually or as an officer of a corporation, or as a
27 member of a partnership, on June 30 of the fiscal year
28 previous to the fiscal year for which the sales agent’s
29 license is issued.

30 (b) “Renewal cemetery sales agent’s license” means a
31 cemetery license issued to a person who had a cemetery
32 sales agent’s or a broker’s license either individually or as
33 an officer of a corporation, or as a member of a
34 partnership, on June 30 of the fiscal year previous to the
35 fiscal year for which the sales agent’s license is issued.

36 7626. The following definitions apply to cemetery
37 establishments and service providers:

38 (a) “Cemetery” means one, or a combination of more
39 than one, of the following, in a place used, or intended to
40 be used, and dedicated for, the following purposes:



- 1 (1) A burial park, for earth interments.
2 (2) A mausoleum, for crypt or vault interments.
3 (3) A columbarium, or a crematory and columbarium,
4 for cinerary interments.
5 (b) “Cemetery authority” means an entity, including
6 a cemetery corporation or partnership, corporation sole,
7 or an individual, that is licensed to own and control
8 cemetery lands or property.
9 (c) “Cemetery broker” means a person who, other
10 than for an occasional sale, sells or offers for sale, buys, or
11 offers to buy, lists, leases or offers to lease, or solicits, or
12 negotiates the purchase or sale, lease or exchange of
13 cemetery property or interment services, or interest
14 therein, for his or her own account or for another.
15 (d) “Cemetery corporation,” “cemetery association,”
16 or “cemetery corporation or association” means a
17 corporation that is or may be authorized by its articles to
18 conduct one or more of the businesses of a cemetery, but
19 does not include a corporation sole.
20 (e) “Cemetery licensee” means the following licensed
21 individuals and entities:
22 (1) A cemetery authority.
23 (2) A cemetery broker.
24 (3) A cemetery sales agent.
25 (4) A crematory.
26 (f) “Cemetery purpose” and “cemetery business” are
27 used interchangeably and mean those purposes requisite
28 to, necessary for, or incident to, establishing, maintaining,
29 operating, improving, or conducting a cemetery,
30 interring human remains, and the care, preservation, and
31 embellishment of cemetery property, including, but not
32 limited to, an activity or business designed for the benefit,
33 service, convenience, education, or spiritual uplift of
34 property owners or persons visiting the cemetery.
35 (g) “Cemetery sales agent” means a natural person
36 who, other than for an occasional sale, is employed by a
37 cemetery broker to sell, or offer for sale, list or offer to list,
38 or to buy, or to offer to buy, or to lease, or offer to lease,
39 or to solicit, or to negotiate the purchase or sale or lease
40 or exchange of cemetery property or interment services,

1 or an interest therein, for his or her own account or for
2 another.

3 (h) “Certificate of authority” means a license to
4 operate a cemetery.

5 (i) “Crematory licensee” means a corporation,
6 partnership, or natural person licensed pursuant to, and
7 means a cemetery licensee for purposes of disciplinary
8 action under, Article 5 (commencing with Section 7680).

9 (j) “Cremated remains disposer” means a person who,
10 for his or her own account or for another, disposes of, or
11 offers to dispose of, cremated human remains by
12 scattering over or on land or sea.

13 (k) “Endowment care” or “endowed care” includes
14 both general and special care funds.

15 (l) “Funeral licensee” means a licensed funeral
16 director or licensed embalmer.

17 (m) “General care fund” has the same meaning as an
18 “endowment care fund.”

19 (n) “Occasional sale” means a sale of cemetery
20 property not acquired or held for purposes of resale or
21 speculation, provided the sale is not one of a series of sales
22 sufficient in number, scope, and character to constitute
23 engaging in the business of selling or reselling or holding
24 for speculation cemetery property.

25 (o) “Private cemetery” means a cemetery owned and
26 operated by an individual, partnership, or corporation.

27 (p) “Qualified manager” means the individual who
28 supervises a crematory and who has passed the
29 examination given by the board.

30 (q) “Special care fund” includes moneys for services
31 and commodities other than the cemetery plot, such as
32 the liners, vaults, and the opening and closing of the
33 grave.

34 7627. For the purposes of preneed funeral accounts,
35 the following definitions shall apply:

36 (a) “Trustee” means a banking institution or trust
37 company legally authorized and empowered by the State
38 of California to act as trustee in the handling of trust funds
39 or not less than three persons one of whom may be an
40 employee of the funeral director.



1 (b) “Trustor” means a person who pays the money or
2 deposits the securities used for the preneed
3 arrangements.

4 (c) “Beneficiary” means the person for whom the
5 funeral services are arranged.

6 (d) “Corpus of the trust” includes all moneys paid and
7 securities delivered pursuant to the provisions of the
8 article.

9

10 Article 3. Administration of Chapter

11

12 7630. (a) There is created in the Department of
13 Consumer Affairs a State Board of Funeral and Cemetery
14 Services. The board shall be composed of 11 members,
15 consisting of seven public members, two cemetery
16 licensees, and two persons who are either funeral director
17 or embalmer licensees. A board member may not hold a
18 cemetery license and a funeral license.

19 (b) The Speaker of the Assembly and the Senate
20 Committee on Rules shall each appoint one public
21 member, and the Governor shall appoint the remaining
22 members.

23 7631. (a) A member of the board may not be
24 financially interested, directly or indirectly, in an
25 institution engaged in embalming or funeral directing
26 instruction or cemetery instruction.

27 (b) A member of the board, except a public member,
28 who represents the funeral and embalming profession,
29 shall only be appointed from persons who are licensed as
30 a funeral director or as an embalmer and who have had
31 a minimum of five consecutive years of experience in
32 funeral directing or embalming immediately preceding
33 their appointment.

34 (c) A member of the board, except a public member,
35 shall be appointed only from persons who have had,
36 immediately preceding their appointment, a minimum
37 of five consecutive years of experience in this state in the
38 active administrative management of a cemetery
39 corporation or funeral establishment or as a member of
40 the board of directors thereof for this period and shall at



1 the time of his or her appointment have the actual and full
2 authority of a president, general manager, or executive
3 vice president. The five-year consecutive period shall be
4 exclusive of time spent in the armed services. The
5 member shall hold office only as long as he or she
6 continues in this active, actual, and authoritative
7 capacity.

8 (d) The public members shall not be licentiates of the
9 board.

10 (e) A public member may not during his or her term
11 of office or any time within five years immediately
12 preceding his or her appointment, engage in either of the
13 following activities:

14 (1) A business or activity that a cemetery authority
15 may engage in under Section 7020 of the Health and
16 Safety Code, whether or not the business or activity is
17 incidental to or independent from a cemetery business,
18 nor be a stockholder in a corporation, or act as legal
19 counsel for a person, firm, or corporation engaged in
20 these activities.

21 (2) A pursuit covered by Part 2 (commencing with
22 Section 8125) or Part 4 (commencing with Section 8890)
23 of Division 8 of the Health and Safety Code.

24 (f) The spouse, child, parent, and kindred, including
25 his or her spouse, of a public member shall be required to
26 meet the requirements of Section 450.

27 7632. (a) A member of the board shall be appointed
28 for a four-year term that expires on June 1. A member
29 shall hold office until the appointment and qualification
30 of his or her successor. A person may not serve as a
31 member of the board for more than two consecutive
32 terms. A vacancy that occurs during a term shall be filled
33 for the unexpired term.

34 (b) Notwithstanding subdivision (a), in order to
35 provide for staggered terms, the terms of the initial
36 appointee of the Speaker of the Assembly and the
37 appointee of the Senate Committee on Rules shall end on
38 July 1, 2000, the term of one licensed cemetery appointee,
39 one licensed funeral appointee, and one public member
40 appointed by the Governor shall expire on July 1, 1999,



1 and the term of one licensed cemetery appointee, one
2 licensed funeral appointee, and two public members
3 appointed by the Governor shall expire on July 1, 1998.

4 7633. (a) A member of the board may be removed by
5 his or her appointing authority for incompetency,
6 improper conduct, or continued neglect of duty required
7 by this chapter.

8 (b) The Director of Consumer Affairs may make a
9 formal recommendation to the appointing power that a
10 board member be removed for cause if the director
11 provides prior written notice to the appointing power
12 and to the member stating the basis for the
13 recommendation.

14 7634. (a) The board shall hold meetings at least four
15 times a year, at least twice in northern California and at
16 least twice in southern California. The board may hold
17 other meetings as may be necessary.

18 (b) A majority of the appointed members of the board
19 shall constitute a quorum to conduct business.

20 (c) An affirmative vote of a majority of those present
21 at a meeting of the board is required to take an action or
22 pass a motion.

23 (d) The members of the board shall annually elect a
24 president, vice president, and secretary. The annual
25 election shall occur at the second meeting after the
26 deadline for new appointments has passed. A board
27 election may not occur prior to the annual deadline for
28 appointments except as necessary due to a vacancy in the
29 office of board president. The vice president shall assume
30 the functions and duties of the president in the event the
31 president is unable to perform those functions and duties.

32 (e) A member of the board shall receive a per diem
33 and expenses as provided in Section 103.

34 7635. (a) The board may, pursuant to the provisions
35 of the Administrative Procedure Act (Chapter 3.5
36 commencing with Section 11340) of Part 1 of Division 3
37 of Title 2 of the Government Code), adopt and enforce
38 reasonably necessary rules and regulations that relate to
39 all of the following:

40 (1) The practice of embalming.



1 (2) The business of a funeral director.

2 (3) The management and administration of a
3 cemetery.

4 (4) The sanitary conditions of places where the
5 practice or business is conducted with particular regard
6 to plumbing, sewage, ventilation, and equipment.

7 (5) Specifying conditions for approval of funeral
8 establishments for apprentices and for approval of
9 embalming schools.

10 (6) The scope of examinations.

11 (7) Carrying out generally the various provisions of
12 this chapter for the protection of the peace, health, safety,
13 welfare, and morals of the public.

14 (b) Until the time that the board adopts regulations as
15 provided for in subdivision (a), it shall retain the
16 authority to operate under, and enforce, the regulations
17 existing prior to January 1, 1996, as specified in Division
18 12 (commencing with Section 1200) and Division 23
19 (commencing with Section 2300) of Title 16 of the
20 California Code of Regulations.

21 (c) A reference to the Cemetery Board and the Board
22 of Funeral Directors and Embalmers contained in
23 Division 12 (commencing with Section 1200) and
24 Division 23 (commencing with Section 2300) of Title 16
25 of the California Code of Regulations shall, upon the
26 effective date of this chapter, be deemed references to
27 the board.

28 (d) If a conflict exists between provisions of this
29 chapter and the regulations contained in Division 12
30 (commencing with Section 1200) and Division 23
31 (commencing with Section 2300) of Title 16 of the
32 California Code of Regulations, the provision of this
33 chapter shall take precedence over the regulation.

34 7636. The board may appoint a person exempt from
35 civil service who shall be designated as an executive
36 officer and who shall exercise the powers and perform
37 duties delegated by the board and vested in him or her by
38 this chapter.

39 7637. The director may intervene in any matter of the
40 board or may assume the powers and duties of the board



1 where an investigation discloses probable cause to
2 believe that the conduct or activity of the board
3 constitutes a violation of criminal law and where the
4 director reasonably believes pursuant to the investigation
5 that the board is unable to perform its regulatory duties
6 and responsibilities as required by law due to a conflict of
7 interest, continued neglect of duty, incompetence, or
8 unprofessional or dishonorable conduct.

9 7638. A suit or action commenced in the superior
10 court against the board shall be filed and tried either in
11 the County of Sacramento, or in the county of the
12 residence of the plaintiff or petitioner, or in the county
13 where the act occurred that is the basis of the suit or
14 action.

15 7639. (a) A license issued by the board pursuant to
16 this chapter shall be displayed conspicuously in the place
17 of business or employment of the licensee.

18 (b) The form and content of a license issued shall be
19 determined in accordance with Section 164.

20 7640. A license issued by the board may not grant
21 authority to do an act specified in this chapter to a person
22 or establishment other than the person to whom, or the
23 establishment to which, the license is issued.

24 7641. In the enforcement of this chapter and the laws
25 subject to its jurisdiction, the board has all the powers and
26 is subject to all the responsibilities vested in and imposed
27 upon the head of a department under Chapter 2
28 (commencing with Section 11150) of Part 1 of Division 3
29 of Title 2 of the Government Code.

30 7642. The board may adopt rules and regulations as
31 may be necessary to perform such duties and to safeguard
32 the trust funds subject to this chapter.

33 7643. No later than July 1, 1997, the board shall adopt
34 appropriate educational, experience, and examination
35 requirements to ensure that licensees who are permitted
36 to receive, invest, and account for preneed trust funds
37 have demonstrated competence in that area.

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Article 4. Funeral Services

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7645. The board through its executive officer may inspect the premises in which the business of a funeral director or that of a cemetery is conducted or where embalming is practiced.

7645.5. A funeral establishment may not be conducted or held forth as being conducted or advertised as being conducted under a name that might tend to mislead the public or that would be sufficiently like the name of another funeral establishment so as to constitute an unfair method of competition.

7646. (a) A funeral establishment that proposes to provide apprenticeship training shall first receive annual approval for apprenticeship training from the board.

(b) The application for approval for apprenticeship training shall be made on a form provided by the board, and shall include the fee fixed by this chapter.

(c) The application shall provide, among other information, evidence of all of the following:

(1) That not less than 50 human remains per apprentice employed have been prepared for burial or other disposition in the establishment during the 12 months immediately preceding the date of such application.

(2) That the applicant has, and will continue to have, in full-time employment for each two apprentices employed in his or her establishment, a California embalmer who has had not less than two years of practical experience as a California licensed embalmer immediately preceding the date of the application.

(3) That the funeral establishment of the applicant meets the requirements of law as to equipment, cleanliness, and sanitation as determined by an inspection report filed with the board.

(d) Approval granted under this section shall be renewed annually upon application by the funeral director, showing continued compliance with the foregoing provisions of this section, filed with the board not later than January 15 of each year, which application



1 will be acted upon by the board at its first meeting
2 thereafter. An application for renewal shall be
3 accompanied by the fee fixed by this chapter.

4 (e) A person who is a duly registered apprentice or a
5 student at an approved embalming school in California at
6 the time of an amendment to this chapter raising the
7 requirements for an apprentice embalmer or to be
8 licensed as an embalmer, may not be required to comply
9 with the provisions of the amendment.

10 7646.5. Nothing in this chapter shall be construed to
11 require a funeral establishment to conduct its business or
12 financial transactions at the same location as its
13 preparation or storage of dead human bodies.

14 7647. Nothing in this chapter shall be deemed to
15 render unlawful the conduct of any ambulance service
16 from the same premises as those on which a funeral
17 establishment is conducted, including the maintenance
18 in connection with the funeral establishment of garages
19 for the ambulances and living quarters for ambulance
20 drivers.

21 7647.5. Except as otherwise provided in this code, a
22 person may not operate or maintain, or hold himself or
23 herself out as operating or maintaining, a funeral
24 establishment unless he or she is a licensed funeral
25 director.

26 7648. A person, partnership, association, corporation,
27 or other organization may not open or maintain a place
28 or establishment to engage in or conduct, or hold himself,
29 herself, or itself out as engaging in or conducting, the
30 business of a funeral director without a license.

31 7648.5. The business of a funeral director shall be
32 conducted and engaged in only at a specified funeral
33 establishment.

34 7649. (a) An application for a funeral director's
35 license shall comply with all of the following:

- 36 (1) It shall be made on a form provided by the board.
37 (2) It shall specify the address at which the applicant
38 proposes to engage in or conduct a place of business as a
39 funeral director.



1 (3) It shall be verified by the applicant, or where the
2 applicant is an association, partnership, or corporation, by
3 the president or other officer.

4 (4) It shall be accompanied by the fee fixed by this
5 chapter.

6 (b) At the time of application, an applicant for
7 examination under Section 7650 shall pay the funeral
8 director’s examination fee fixed by this chapter.

9 7649.5. An applicant for a funeral director’s license,
10 who is a natural person, or where the applicant is an
11 association, partnership, or corporation, the officer or
12 partner who is to manage, direct, or control the proposed
13 business or profession, shall be at least 18 years of age and
14 shall not have committed acts or crimes constituting
15 grounds for denial of licensure under Section 480. The
16 applicant shall also furnish proof that the establishment
17 in which he or she intends to conduct business as a funeral
18 director is or will be constructed, equipped, and
19 maintained as a funeral establishment, as defined in this
20 chapter.

21 7650. As a condition of licensure the applicant, when
22 an individual, or the president or other officer of an
23 association, partnership, corporation, or other
24 organization, or the individual who is to manage, direct,
25 or control the proposed business or profession, shall
26 successfully pass an examination upon the following
27 subjects:

- 28 (a) The signs of death.
- 29 (b) The manner by which death may be determined.
- 30 (c) The laws governing the preparation, burial, and
31 disposal of dead human bodies, and the shipment of
32 bodies dying from infectious or contagious diseases.
- 33 (d) Local health and sanitary ordinances and
34 regulations relating to funeral directing and embalming.

35 7650.5. (a) Upon receipt of an application for a
36 license, the board shall cause an inspection to be made of
37 the physical status or plans and specifications of the
38 proposed funeral establishment, and shall investigate the
39 other qualifications required of the applicant under this



1 chapter, and for this purpose may subpoena witnesses,
2 administer oaths, and take testimony.

3 (b) The board shall examine and pass upon the
4 qualifications of the applicant as to ability and experience
5 before passing upon the physical status or the plans and
6 specifications of the proposed funeral establishment.

7 (c) The board shall grant a license if it finds by onsite
8 inspection, that the proposed funeral establishment is or
9 will be constructed and equipped as required by this
10 chapter and that the applicant is qualified in all other
11 respects as required by this chapter.

12 7651. A funeral director licensed under the laws of the
13 State of California, or his or her agents or employees, may
14 not enter into or solicit any preneed contract, agreement,
15 or plan, referred to as “contract,” that requires the
16 payment of money or the delivery of securities in
17 payment for the future disposition of a dead human body
18 or for funeral services or for the furnishing of personal
19 property or funeral merchandise, except in accordance
20 with this article.

21 7651.5. A preneed contract shall specify all of the
22 following:

23 (a) Money paid directly or indirectly and securities
24 delivered under the agreement or under an agreement
25 collateral thereto, shall be held in trust for the purpose for
26 which it was paid or delivered until the contract is
27 fulfilled according to its terms. However, a payment
28 made or security deposited pursuant to this article shall
29 be released upon the death of the person for whose
30 benefit the trust was established as provided in Section
31 7652.

32 (b) The income from the corpus may be utilized to pay
33 for a reasonable annual fee for administering the trust,
34 including a trustee fee, to be determined by the board,
35 and to establish a reserve of up to 10 percent of the corpus
36 as a revocation fee in the event of cancellation on the part
37 of the beneficiary.

38 (c) The trust corpus may not be used for payment of
39 a commission nor may any of the trust corpus be used for
40 other expenses of trust administration.

1 7652. (a) A security purchased by the trustor for
2 deposit in trust and money received from the trustor for
3 deposit in trust shall be placed in trust with a trustee
4 within 30 days of its receipt by the funeral director,
5 pursuant to a trust agreement.

6 (b) The trust agreement executed by the funeral
7 director, the trustor, and trustee shall provide that the
8 trustee shall hold the money or securities in trust for the
9 purposes for which deposited and that the trustee, upon
10 the signature of a majority of the trustees, shall deliver the
11 corpus of the trust to the funeral director upon the filing
12 of a certified copy of the death certificate or other
13 satisfactory evidence of the death of the beneficiary,
14 together with satisfactory evidence that the funeral
15 director has furnished the merchandise and services.

16 (c) In the case of a trust agreement between a trustee
17 as defined in this chapter and a recipient of public
18 assistance, under the provisions of subdivision (a) of
19 Section 11158 or paragraph (1) of subdivision (e) of
20 Section 12152 of the Welfare and Institutions Code, the
21 trust agreement may further provide that it is irrevocable
22 provided the value limitations of those sections are not
23 exceeded.

24 (d) In a case other than that subject to subdivision (c),
25 the trust agreement shall provide that at any time before
26 the funeral director has furnished the merchandise and
27 services subject to the contract, the trustor or the legally
28 appointed representative may in writing demand and
29 receive the return of the corpus of the trust, together with
30 any income accrued in the trust, less the revocation fee
31 provided for in Section 7651.5.

32 (e) If the trustor becomes otherwise eligible, or in
33 order to become eligible, for public social services, as
34 provided in Division 9 (commencing with Section 10000)
35 of the Welfare and Institutions Code, he or she may agree,
36 at his or her option, that the trust shall be irrevocable in
37 order to avail himself or herself of the provisions of
38 Section 11158 or Section 12152 of the Welfare and
39 Institutions Code.



1 (f) The delivery of the corpus of the trust and the
2 accumulated income to the funeral director performing
3 the services, to the trustor or to the beneficiary pursuant
4 to the terms of this article and the trust agreement, shall
5 relieve the trustee of any further liabilities with regard to
6 the funds or income therefrom.

7 7652.5. (a) Commingled preneed trust funds held by
8 a funeral director shall be subject to an annual,
9 independent certified financial audit with a copy of the
10 audit to be submitted to the board for review within 120
11 days of the close of the fund's fiscal year.

12 (b) A finding of noncompliance with existing law
13 regarding preneed trust funds shall be identified by the
14 auditor in a separate report for review and action by the
15 board.

16 (c) An audit and report of noncompliance shall be
17 filed simultaneously.

18 7653. (a) A trustee may deposit the corpus of the
19 trust in a savings and loan association insured by the
20 Federal Savings and Loan Insurance Corporation.

21 (b) A trustee may deposit the corpus of the trust in a
22 credit union that is insured by the National Credit Union
23 Share Insurance Fund.

24 7653.5. (a) A licensed funeral director who is also a
25 licensed cemetery authority may not deposit money or
26 securities received in connection with preneed funeral
27 arrangements in a special endowment care fund as
28 provided in Article 4 (commencing with Section 8775) of
29 Chapter 5 of Part 3 of Division 8 of the Health and Safety
30 Code.

31 (b) A licensed funeral director may not permit the
32 deposit of money or securities received in connection
33 with a special endowment care fund into a preneed
34 funeral trust fund.

35 (c) Nothing in this section shall require the liquidation
36 or conversion of any lawful investment existing on
37 December 31, 1981.

38 7654. (a) A person willfully violating a provision of
39 this article shall be punishable either by imprisonment in
40 a county jail for a period not exceeding six months, or by



1 fine not exceeding five hundred dollars (\$500), or by both
2 such imprisonment and fine, or by imprisonment in the
3 state prison for 16 months, or two or three years.

4 (b) If the violator is a licensed funeral director, he or
5 she shall also be subject to disciplinary action as provided
6 in this article.

7 7654.5. A funeral director shall pay to the board the
8 fee fixed by this chapter for filing with the board a report
9 on preneed trust funds required by rules and regulations
10 adopted by the board.

11 7655. (a) A funeral director shall present to the
12 survivor of the deceased who is handling the funeral
13 arrangements or the responsible party a copy of a
14 preneed agreement that has been signed and paid for in
15 full, or in part by, or on behalf of the deceased and is in
16 the possession of the funeral director. The copy may be
17 presented in person, by certified mail, or by facsimile
18 transmission, as agreed upon by the survivor of the
19 deceased or the responsible party.

20 (b) A funeral director who knowingly fails to present
21 a preneed agreement to the survivor of the deceased or
22 the responsible party shall be liable for a civil fine equal
23 to three times the cost of the preneed agreement, or one
24 thousand dollars (\$1,000), whichever is greater.

25 7655.5. Nothing in this article shall apply to cemetery
26 property, cemetery commodities, cemetery service, or
27 merchandise that is delivered upon payment.

28 7656. Nothing in this article shall apply to an
29 arrangement, contract, or plan for the issuance of
30 securities authorized under a permit of the
31 Commissioner of Corporations.

32 7656.5. (a) When a hearing is held to determine
33 whether a license should be granted, the proceeding shall
34 be conducted in accordance with Chapter 5
35 (commencing with Section 11500) of Part 1 of Division 3
36 of Title 2 of the Government Code, and the board shall
37 have all of the powers granted by these provisions.

38 (b) An application for a funeral director's license
39 under this article shall be granted or refused within 90
40 days from the date of the filing of the application, or



1 within 30 days after the close of the hearing upon the
2 application, if a hearing is held.

3 7657. (a) If an applicant for a funeral director's
4 license proposes to engage in or conduct more than one
5 funeral establishment, the applicant shall make a
6 separate application and procure a separate license as a
7 funeral director for each separate location.

8 (b) Not more than one person, partnership,
9 association, corporation, or other organization engaged in
10 business as a funeral director shall transact business in one
11 specific funeral establishment.

12 7657.5. (a) A funeral director who desires to change
13 his or her place of business shall apply for authorization
14 by the board, on a form furnished by the board. The
15 application shall include a fee fixed by this chapter.

16 (b) The application shall be granted by the executive
17 officer upon the filing with the board of a favorable
18 report, approved by the executive officer, from a board
19 member, except a public member, or inspector
20 concerning the physical status or plans and specifications
21 of the proposed funeral establishment to the effect that
22 it conforms to the requirements of this article. An
23 application that is granted shall be submitted for approval
24 at the next meeting of the board after the issuance
25 thereof, and an application for change of place of business
26 may not become permanent until approved by the board.

27 7658. (a) A funeral director's license may be assigned
28 upon payment of the fee fixed by this chapter and, if the
29 assignee does not already possess a valid California license
30 as a funeral director, upon his or her meeting the
31 qualifications for a funeral director as prescribed by this
32 chapter.

33 (b) Prior to a funeral director's license being assigned,
34 an audit shall be conducted of the funeral establishment's
35 preneed trust funds and any shortages in these funds shall
36 be funded.

37 (c) An assignee has the right to renew the license.

38 7658.5. In case of the death of a licensed funeral
39 director, who leaves an established business as part or all
40 of the assets of his or her estate, the board may issue a



1 special temporary license to his or her legal
2 representative, unless the legal representative has
3 committed acts or crimes constituting grounds for denial
4 of licensure under Section 480.

5 7659. (a) Except as provided in subdivision (b), it is
6 unlawful for a person to embalm a body, or engage in, or
7 hold himself or herself out as engaged in practice as an
8 embalmer, unless he or she is licensed by the board.

9 (b) This section does not apply to a student or
10 instructor of embalming at embalming colleges approved
11 by the board.

12 7659.5. Except as provided in Section 10375 of the
13 Health and Safety Code, when the name of a licensed
14 embalmer is to be subscribed to a certificate, the purpose
15 of which is verification that an act referenced in the
16 certificate has been performed, the licensed embalmer
17 who performed the act shall personally sign his or her
18 name to the certificate.

19 7660. Notwithstanding any other provision of law, a
20 licensed embalmer, at the request of a licensed physician,
21 may remove tissue from a dead human body for
22 transplant, or therapeutic or scientific purposes specified
23 in, and pursuant to, the provisions of the Uniform
24 Anatomical Gift Act, Chapter 3.5 (commencing with
25 Section 7150) of Part 1 of Division 7 of the Health and
26 Safety Code, if the embalmer has completed a course in
27 tissue removal for transplant, or therapeutic or scientific
28 purposes approved by the Medical Board of California.

29 7660.5. An application for an embalmer's license shall
30 be made on a form provided by the board, verified by the
31 applicant, and accompanied by the fee fixed by this
32 chapter.

33 7661. (a) In order to qualify for a license as an
34 embalmer, the applicant shall comply with all of the
35 following requirements:

36 (1) Be over 18 years of age.

37 (2) Not have committed acts or crimes constituting
38 grounds for denial of licensure under Section 480.

39 (3) Furnish proof showing completion of a high school
40 diploma or its equivalent.



1 (4) Have completed at least two years of
2 apprenticeship pursuant to the requirements in Article 4
3 (commencing with Section 7645). While apprenticed, the
4 applicant shall have assisted in embalming or otherwise
5 preparing for disposition not less than 100 human
6 remains.

7 (5) Have successfully completed a course of
8 instruction of not less than nine months, which embraces
9 the subjects specified in Section 7661.5, at an embalming
10 school approved by the board.

11 (b) A person who has been licensed and who has
12 practiced as an embalmer for a minimum of three years
13 within the seven years preceding his or her application in
14 another state or country and whose license has never
15 been disciplined in that state or country shall not be
16 required to comply with paragraph (3) or (4) of
17 subdivision (a).

18 7661.5. The board shall require the applicant to pass
19 an examination, which shall include all of the following
20 subjects:

21 (a) Theory and practice of embalming.

22 (b) Anatomy, including histology, embryology, and
23 dissection.

24 (c) Pathology and bacteriology.

25 (d) Hygiene, including sanitation and public health.

26 (e) Chemistry, including toxicology.

27 (f) Restorative art, including plastic surgery and
28 demisurgery.

29 (g) Statutes and rules and regulations of the board,
30 including those provisions of the Health and Safety Code
31 that pertain to the funeral industry.

32 7662. An embalmer's license may not be assigned, and
33 only the licensee may engage in the practice of
34 embalming under the license.

35 7662.5. From time to time, the board may examine
36 the requirements for the issuance of licenses to
37 embalmers in other states and cause a record to be kept
38 of those states in which standards are maintained for
39 embalmers.



1 7663. (a) The apprenticeship required by this article
2 shall be served in a funeral establishment that has been
3 previously approved for apprenticeship training by the
4 board.

5 (b) Daily supervision and instruction of a registered
6 apprentice embalmer shall be provided by a licensed
7 embalmer who has at least two years of practical
8 experience as a California licensed embalmer.

9 (c) While serving the required term of apprenticeship,
10 an apprentice shall be a full-time employee of the funeral
11 establishment.

12 7663.5. An application for registration as an
13 embalmer's apprentice shall be made upon a form
14 provided by the board, verified by the applicant, and
15 accompanied by the fee fixed by this chapter.

16 7664. (a) In order to qualify as an apprentice
17 embalmer, an applicant shall comply with all of the
18 following requirements:

19 (1) Be over 18 years of age.

20 (2) Not have committed acts or crimes constituting
21 grounds for denial of licensure under Section 480.

22 (3) Furnish proof showing either of the following:

23 (A) Completion of a high school course.

24 (B) Evidence that he or she has been licensed and has
25 practiced as an embalmer for a minimum of three years
26 within the seven years preceding his or her application in
27 another state or country and that license has never been
28 suspended or revoked for unethical conduct.

29 (b) Whenever it appears to the board that no reason
30 exists for the denial of an application and that the
31 application is regular upon its face, a certificate of
32 apprenticeship may be issued to the applicant.

33 7664.5. (a) A certificate of apprenticeship issued
34 pursuant to this article shall expire when the holder has
35 been issued a license as an embalmer, or five years from
36 the date of registration, whichever first occurs.

37 (b) This certificate may not be renewed, but an
38 apprentice embalmer who has not completed his or her
39 term of apprenticeship at the time his or her certificate



1 expires may apply for reregistration upon compliance
2 with Section 7663.5.

3 (c) The board may, when the circumstances warrant,
4 allow an apprentice credit under a reregistration for the
5 time actually served under a previous registration, but a
6 reregistration may not have the effect of continuing the
7 term of apprenticeship beyond the period specified in
8 Sections 7666 and 7666.5.

9 7665. (a) A registered apprentice embalmer shall file
10 a report to the board during the term of the
11 apprenticeship upon the occurrence of any of the
12 following events:

13 (1) On or before January 15 of each year covering the
14 period of apprenticeship ending as of December 31
15 preceding.

16 (2) Upon change of supervising embalmer or
17 employer, or both.

18 (3) Upon completion of apprenticeship.

19 (4) Upon application for leave of absence for a period
20 in excess of 15 days.

21 (5) Upon suspending apprenticeship to attend
22 embalming college.

23 (6) Upon application for reregistration after
24 suspension or revocation of registration where a
25 complete report of previous registration has not been
26 filed.

27 (b) The information contained in the report shall
28 consist of a concise summary of the work done by the
29 apprentice during the period covered by the report, shall
30 be verified by the apprentice, and certified as correct by
31 his or her supervising embalmer and employer.

32 7665.5. (a) Upon the request of the board, a funeral
33 director in whose establishment an apprenticeship is
34 being or has been served, and an embalmer under whose
35 instruction or supervision an apprenticeship is being or
36 has been served, shall promptly file with the board a
37 report or other information as may be requested relating
38 to the apprenticeship.

39 (b) Failure to comply with the request is a ground for
40 revocation by the board of the approval granted to the



1 funeral director or embalmer for the training of
2 apprentices and is also a ground for disciplinary action
3 against the funeral director or embalmer.

4 7666. (a) The term of apprenticeship shall be two
5 years.

6 (b) If an apprentice, after serving the two-year term,
7 fails to pass the examination for an embalmer's license, he
8 or she may continue the apprenticeship for a maximum
9 of one additional term.

10 (c) An apprentice may, upon approval by the board,
11 continue an apprenticeship for a period not to exceed six
12 months for any of the following reasons:

13 (1) While awaiting the processing of applications
14 submitted to the board.

15 (2) While awaiting notification of grades of
16 embalmers' examinations given by the board.

17 (3) While awaiting the commencement of a class of an
18 embalming school or college when the apprentice
19 intends to enroll in such school or college.

20 (d) Applications for an extension of apprenticeship
21 shall be filed by the applicant with the Sacramento office
22 of the board not less than 15 days prior to the date the
23 applicant requests the extension to commence.

24 7666.5. (a) A term of apprenticeship may be served
25 before, after, or in conjunction with attendance at an
26 embalming college, at the option of the apprentice. A
27 student attending an embalming college may be
28 registered as an apprentice while attending college, but
29 credit toward the apprenticeship shall accrue only as a
30 result of full-time employment at the funeral
31 establishment.

32 (b) The term of apprenticeship must be completed,
33 excluding time spent in active military services, within
34 five years from the date of original registration, or from
35 the date an apprentice successfully passes the
36 examination for an embalmer's license required in
37 Section 7661.5, whichever first occurs. If the term of
38 apprenticeship is not completed within the five-year
39 period, the board may require that the applicant serve a
40 maximum of one additional term of apprenticeship, and



1 pass the additional examination on the subjects listed in
2 Section 7661.5 as the board considers necessary.

3 7667. (a) The board may grant a leave of absence and
4 an extension of the leave during the term of
5 apprenticeship.

6 (b) A leave of absence, including an extension, may
7 not be approved for a period longer than one year.

8 (c) Credit may not be given to an apprentice for the
9 period during which he or she is absent from duty on
10 leave.

11 (d) An application for a leave of absence and for an
12 extension of the leave shall be made by the apprentice on
13 a form provided by the board.

14 (e) Upon termination of a leave of absence, the
15 apprentice shall notify the board of this fact within 10 days
16 of his or her resumption of apprenticeship. Notice shall be
17 given by returning to the board, the certificate of
18 registration, accompanied by a statement as to the
19 resumption of apprenticeship. The statement shall be
20 certified as correct by the funeral director in whose
21 establishment the apprentice is to resume his or her
22 duties, and by the embalmer under whose supervision the
23 apprenticeship will resume.

24 (f) Failure to report to the board within 10 days after
25 the expiration date of a leave of absence shall be cause for
26 cancellation of the registration of an apprentice.

27 7667.5. The board may suspend or revoke a certificate
28 of apprenticeship, after notice and upon complaint and
29 hearing in accordance with the provisions of this chapter,
30 where the apprentice is guilty of any of the following acts
31 or omissions:

32 (a) Failure to devote full-time employment to the
33 duties of his or her apprenticeship.

34 (b) Failure to make a report required by law to the
35 board.

36 (c) Absence from duty except as provided in this code.

37 (d) Being on duty as an apprentice while under the
38 influence of alcohol.

39 (e) Disobedience of proper orders or instructions of
40 the funeral director or supervising embalmer.

1 (f) Violation of a provision of this chapter or a rule or
2 regulation of the board.

3 (g) Soliciting business for a funeral director or for an
4 embalmer in violation of this chapter.

5 (h) Fraud or misrepresentation in obtaining a
6 certificate of registration as an apprentice.

7 (i) Conviction of a crime substantially related to the
8 qualifications, functions, and duties of an apprentice, in
9 which case the record of conviction, or a certified copy
10 thereof, shall be conclusive evidence of the conviction.

11 7668. (a) An apprentice who has had his or her
12 certificate of apprenticeship suspended or revoked may,
13 within one year after the conclusion of the suspension or
14 revocation, apply for reregistration upon compliance
15 with the law in effect at the time of reregistration and by
16 paying the apprentice application fee fixed by this
17 chapter.

18 (b) A reregistration may not have the effect of
19 continuing an apprenticeship beyond the period
20 specified in Section 7666.

21 (c) The board may, when the circumstances warrant,
22 allow an apprentice credit under a reregistration for the
23 time actually served under a previous registration, except
24 when the previous registration was suspended or revoked
25 for unprofessional conduct. If unprofessional conduct was
26 the basis for the suspension or revocation, not more than
27 75 percent of the time previously served shall be credited
28 on the reregistration.

29 7668.5. The board, after a hearing, may deny the
30 application of a funeral director, embalmer, or
31 apprentice embalmer on proof that the applicant has
32 committed acts or crimes constituting grounds for denial
33 of licensure under Section 480. The record of conviction,
34 or a certified copy thereof, shall be conclusive evidence
35 of the conviction.

36 7669. The board may suspend or revoke licenses, after
37 proper notice and hearing to the licensee, if the licensee
38 has been found guilty of an act or omission that constitutes
39 grounds for disciplinary action. The proceedings under
40 this article shall be conducted in accordance with



1 Chapter 5 (commencing with Section 11500) of Part 1 of
2 Division 3 of Title 2 of the Government Code, and the
3 board shall have all the powers granted therein.

4 7669.5. (a) Except as provided in subdivision (b), an
5 accusation against a licensee shall be filed with the board
6 within three years after the performance of the act or
7 omission alleged as the ground for disciplinary action.

8 (b) An allegation of fraud or misrepresentation may
9 not be deemed to have accrued until discovery, by the
10 board, of the facts constituting the fraud or
11 misrepresentation, and, in this case, the accusation shall
12 be filed within three years after the discovery.

13 7670. (a) Upon receipt of a complaint, the board shall
14 ascertain whether or not the accused licensee has been
15 guilty of an act or omission constituting a ground for
16 disciplinary action and may make or cause to be made an
17 investigation as he or she deems necessary in order to
18 ascertain this fact.

19 (b) If, with or without investigation, the board
20 determines that the accused licensee is not guilty of an act
21 or omission constituting a ground for disciplinary action,
22 he or she shall notify the complainant and file the findings
23 with the board. If, with or without investigation, the
24 board has reason to believe that the accused licensee is
25 guilty of an act or omission it shall forward the findings to
26 the Attorney General, including therein the
27 recommendations it deems desirable. Upon receipt of the
28 findings and recommendations, the Attorney General
29 shall promptly take action thereon as may be proper.

30 7670.5. The board may hold an informal hearing and
31 an investigation, with or without the knowledge or
32 presence of the accused licensee. The board may not do
33 more than determine upon the following courses at an
34 informal hearing or after an investigation:

- 35 (a) To continue the case for further investigation.
- 36 (b) To suspend further action until a future time.
- 37 (c) To dismiss the complaint.
- 38 (d) To proceed with a formal hearing.

39 7671. An accused licensee whose default has been
40 entered or who has been found after formal hearing, to



1 have committed an act or omission constituting a ground
2 for disciplinary action shall be subject to one or more of
3 the following penalties:

- 4 (a) Suspension of the disciplinary order.
- 5 (b) Public or private reproof.
- 6 (c) Probation.
- 7 (d) Suspension of the right to practice.
- 8 (e) Revocation of the right to practice.
- 9 (f) Any other penalties as the board deems fit.

10 7671.5. A plea or verdict of guilty or a conviction
11 following a plea of nolo contendere is deemed to be a
12 conviction within the meaning of this article. The board
13 may order the license suspended or revoked, or may
14 decline to issue a license, when the time for appeal has
15 elapsed, or the judgment of conviction has been affirmed
16 on appeal or when an order granting probation is made
17 suspending the imposition of sentence, irrespective of a
18 subsequent order under the provisions of Section 1203.4
19 of the Penal Code allowing the person to withdraw his or
20 her plea of guilty and to enter a plea of not guilty, or
21 setting aside the verdict of guilty, or dismissing the
22 accusation, information, or indictment.

23 7672. When a funeral director or embalmer has had
24 his, her, or its license suspended, canceled, or revoked by
25 the board, the board may, upon written application by
26 the licensee affected, upon not less than 10 days' notice to
27 all parties of record in the particular case, and after
28 hearing all evidence offered in support of and in
29 opposition to such application, in its discretion, and upon
30 those terms as may be deemed just, reinstate the
31 applicant.

32 7672.5. The commission of any of the following by a
33 person licensed under this article shall constitute a
34 ground for disciplinary action:

- 35 (a) Misrepresentation or fraud in the conduct of the
36 business or the profession of a funeral director or
37 embalmer.
- 38 (b) Negligence in performing an act related to the
39 practice of funeral directing or embalming.



1 (c) A false or misleading statement regarding a law or
2 regulation pertaining to the preparation for burial,
3 transportation for burial, or burial of the dead, made
4 willfully by a licensee to obtain business as a funeral
5 director or embalmer.

6 (d) False or misleading advertising as a funeral
7 director or embalmer.

8 (e) Solicitation, other than general advertising, after a
9 death or while a death is impending, of funeral directing
10 or embalming business by the licensee, or by the agents,
11 assistants, or employees of the licensee, when such
12 solicitation is authorized or ratified by the licensee.

13 (f) Employment of persons known as “cappers,”
14 “steerers,” “solicitors,” or other persons to solicit, after a
15 death or while a death is impending, funeral directing or
16 embalming business.

17 (g) Employment, directly or indirectly, of an
18 apprentice, agent, assistant, embalmer, employee, or
19 other person, on a part-time or full-time basis, or on
20 commission, for the purpose of calling upon individuals or
21 institutions by whose influence human remains may be
22 turned over to a particular funeral director or embalmer.

23 (h) The buying, after a death or while a death is
24 impending, of funeral directing and embalming business
25 by the licensee, his or her agents, assistants, or employees,
26 or the direct or indirect payment, or offer of payment, of
27 a commission by the licensee, his or her agents, assistants,
28 or employees for the purpose of this buying of business.

29 (i) Aiding or abetting an unlicensed person to practice
30 funeral directing or embalming.

31 (j) Authorization by a funeral director of the
32 embalming of human remains in the funeral
33 establishment by anyone other than a licensed embalmer,
34 or by an apprentice embalmer under the supervision of
35 a licensed embalmer.

36 (k) Using profane, indecent, or obscene language in
37 the course of the preparation for burial, removal, or other
38 disposition of, or during the funeral service for, a human
39 remains, or within the immediate hearing of the family or



1 relatives of a deceased, whose body has not yet been
 2 interred or otherwise disposed of.

3 (l) Solicitation or acceptance of a commission or bonus
 4 or rebate in consideration of recommending or causing
 5 human remains to be disposed of in a crematory,
 6 mausoleum, or cemetery.

7 (m) Solicitation or acceptance of a commission or
 8 bonus or rebate in consideration of recommending or
 9 causing the purchase of flowers from a particular florist
 10 or dealer in flowers, for use in connection with a funeral
 11 service.

12 (n) Using a casket or part of a casket that has
 13 previously been used as a receptacle for, or in connection
 14 with the burial or other disposition of human remains.
 15 However, this section may not apply to exterior casket
 16 hardware that is not sold to the purchaser, or where same
 17 is reserved by contract.

18 (o) Fraud or misrepresentation in obtaining a license.

19 (p) Conviction of a crime substantially related to the
 20 qualifications, functions, and duties of the license holder
 21 in question.

22 7673. The commission of any of the following acts shall
 23 constitute a misdemeanor:

24 (a) Violation of a provision of this chapter by a person,
 25 partnership, association, corporation, or other form of
 26 organization or his or her or its agents or representatives.

27 (b) Paying, offering to pay, or causing to be paid,
 28 directly or indirectly, by a funeral director or embalmer,
 29 or his or her agents or representatives, after a death or
 30 while a death is impending, of a sum of money or other
 31 valuable consideration for the securing of business.

32 (c) The paying, causing to be paid, or offering to pay
 33 to a funeral director or embalmer, or to the agent,
 34 assistant, or employee of either, a commission or bonus or
 35 rebate or other thing of value in consideration of the
 36 funeral director or embalmer recommending or causing
 37 human remains to be disposed of in a crematory,
 38 mausoleum, or cemetery, by a person.

39 (d) (1) Except as provided in paragraph (2), a person
 40 who pays or causes to be paid or offers to pay to a funeral



1 director or embalmer, or to the agent, assistant, or
2 employee of either, a commission or bonus or rebate or
3 other thing of value in consideration of the funeral
4 director or embalmer recommending or causing the
5 purchase of flowers from a particular florist or dealer in
6 flowers, for use in connection with a funeral service.

7 (2) This subdivision shall not apply to a funeral
8 director who owns or operates a flower shop as a part of
9 his or her funeral business, or to his or her agents or
10 employees.

11 (e) Soliciting or accepting a sum of money or other
12 valuable consideration, directly or indirectly, by a person
13 after a death or while a death is impending, from a funeral
14 director or embalmer, his or her agent, or representative,
15 in order that the funeral director or embalmer might
16 obtain business.

17 (f) Holding oneself out as a funeral director, whether
18 as an individual, as a partner in a partnership, or as an
19 officer or employee of a corporation, association, or other
20 organization without a license.

21 (g) Refusing to surrender promptly the custody of
22 human remains, upon the express order of the person
23 lawfully entitled to its custody.

24 (h) Violation of provisions of this chapter governing
25 funeral services and practices or of the applicable rules
26 and regulations adopted pursuant to this chapter.

27 (i) Violation of a state law where no penalty is
28 prescribed or municipal or county ordinance or
29 regulation affecting the handling, custody, care, or
30 transportation of human remains.

31 7673.5. (a) Except as otherwise provided in this
32 article, a license granted pursuant to this article that has
33 expired may be renewed at any time within five years
34 after its expiration on filing of application for renewal on
35 a form prescribed by the board and payment of the
36 renewal fee in effect on the last regular renewal date.

37 (b) If the license is not renewed within 30 days after
38 its expiration, the licensee shall also pay the delinquency
39 fee prescribed by this chapter as a condition of renewal.



1 (c) Renewal under this section shall be effective on
2 the date that the application is filed, on the date that the
3 renewal fee is paid, or on the date that the delinquency
4 fee, if any, is paid, whichever last occurs. If so renewed,
5 the license shall continue in effect as provided in this
6 article.

7 (d) If a license is not renewed within one year
8 following its expiration, the board may require as a
9 condition of renewal that the holder of the license pass an
10 examination on the appropriate subjects provided by this
11 chapter.

12 (e) If not renewed, a license issued under this chapter
13 shall expire on January 31 of each year. To renew an
14 unexpired license, the licensee shall, on or before the date
15 that it would expire, apply for a renewal on a form
16 prescribed by the board, and pay the renewal fee
17 prescribed by this chapter. On or before the 10th day of
18 December of each year, the board shall mail to a licensed
19 funeral director and a licensed embalmer, addressed to
20 him or her at his or her last known address, a notice that
21 a renewal fee is due and payable.

22 7674. (a) Except as authorized in subdivision (b), an
23 expired license that is not renewed within three years
24 after its expiration may not be renewed, restored,
25 reissued, or reinstated thereafter. The holder of the
26 expired license may obtain a new license only if he or she
27 pays all of the fees and meets all of the requirements,
28 other than requirements relating to education, set forth
29 in this chapter for obtaining an original license.

30 (b) The board may issue a new license without an
31 examination if the applicant establishes to the board's
32 satisfaction that, with due regard for the public interest,
33 he or she is qualified to engage in the activity in which he
34 or she again seeks to be licensed. The board may, by
35 appropriate regulation, provide for the waiver or refund
36 of all or any part of the application fee in those cases in
37 which a license is issued without an examination under
38 this section.

39 (c) The provisions of this section do not apply to
40 certificates of apprenticeship.



1 7674.5. A suspended license is subject to expiration
2 and shall be renewed as provided in this article, but the
3 renewal does not entitle the holder of the license, while
4 it remains suspended and until it is reinstated, to engage
5 in the activity to which the license relates, or in another
6 activity or conduct in violation of the order or judgment
7 by which it was suspended.

8 7675. A revoked license is subject to expiration as
9 provided in this article, but it may not be renewed. If it
10 is reinstated after its expiration, the holder of the license,
11 as a condition precedent to its reinstatement, shall pay a
12 reinstatement fee in an amount equal to the renewal fee
13 in effect on the last regular renewal date before the date
14 on which it is reinstated plus the delinquency fee, if any,
15 accrued at the time of its revocation.

16 7675.5. The amount of the fees prescribed by this
17 chapter shall be fixed according to the following
18 schedule:

19 (a) The application fee for a funeral director's license
20 shall be not less than three hundred dollars (\$300) and not
21 more than four hundred dollars (\$400).

22 (b) The application fee for change of location of a
23 funeral director's license shall be not less than one
24 hundred fifty dollars (\$150) and not more than two
25 hundred fifty dollars (\$250).

26 (c) The application fee for permission to assign a
27 funeral director's license shall be not less than two
28 hundred dollars (\$200) and not more than three hundred
29 dollars (\$300).

30 (d) The license renewal fee payable by a licensed
31 funeral director shall be not less than three hundred
32 dollars (\$300) and not more than four hundred dollars
33 (\$400). The fee for a delinquent renewal of a funeral
34 director's license shall be 150 percent of the timely
35 renewal fee.

36 (e) The application fee for an embalmer's license and
37 the examination for the license shall be not less than one
38 hundred dollars (\$100) and not more than one hundred
39 fifty dollars (\$150).



- 1 (f) The renewal fee payable by a licensed embalmer
2 shall be not less than seventy-five dollars (\$75) and not
3 more than one hundred twenty-five dollars (\$125). The
4 fee for a delinquent renewal of an embalmer's license
5 shall be 150 percent of the timely renewal fee.
- 6 (g) The application fee for a certificate of registration
7 as an apprentice embalmer shall be not less than thirty
8 dollars (\$30) and not more than sixty dollars (\$60).
- 9 (h) The fee for an application by a funeral director for
10 approval to train apprentice embalmers and for renewal
11 of that approval shall be not less than fifty dollars (\$50)
12 and not more than one hundred dollars (\$100).
- 13 (i) The application fee for a funeral director's
14 examination shall be not less than seventy-five dollars
15 (\$75) and not more than one hundred dollars (\$100).
- 16 (j) The fee for a timely filing of an individual report or
17 a combined report on preneed trust funds shall be not less
18 than one hundred dollars (\$100) and not more than two
19 hundred dollars (\$200). The fee for a late filing of any
20 report on preneed trust funds shall be 150 percent of the
21 applicable timely fee.
- 22 (k) The application fee for permission to change the
23 name appearing on a funeral director's license shall be
24 not less than one hundred dollars (\$100) and not more
25 than two hundred dollars (\$200), and for permission to
26 change the name on any other license or certificate, not
27 less than twenty dollars (\$20) and not more than forty
28 dollars (\$40).
- 29 (l) The application fee for a duplicate funeral
30 director's license, a duplicate embalmer's license, or a
31 duplicate certificate of registration as an apprentice
32 embalmer, shall be not less than twenty dollars (\$20) and
33 not more than forty dollars (\$40).
- 34 (m) The fee for filing a report of a change of corporate
35 officers, managers, or preneed trust fund trustees shall be
36 not less than twenty-five dollars (\$25) and not more than
37 fifty dollars (\$50).
- 38



Article 5. Cemetery Services

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7680. (a) The board shall adopt regulations by July 1, 1997, on standards for the burial depth of graves.

(b) The board shall enforce and administer ~~Division 7~~
~~(commencing with Section) of, and Chapter 1~~
~~(commencing with Section 7000), Chapter 2~~
~~(commencing with Section 7050), Chapter 3~~
~~(commencing with Section 7100), Chapter 4~~
~~(commencing with Section 7200), and Chapter 5~~
~~(commencing with Section 7300) of Part 1 of Division 7~~
~~of, Part 1 (commencing with Section 8100) and, Part 3~~
~~(commencing with Section 8250), and Part 5~~
~~(commencing with Section 9501), of Division 8 of, the~~
Health and Safety Code.

(c) Unless otherwise expressly provided, this article does not apply to the following:

(1) A religious corporation, church, religious society or denomination, a corporation sole administering temporalities of a church or religious society or denomination, or a cemetery organized, controlled, and operated by any of them.

(2) A public cemetery.

(3) A private or fraternal burial park not exceeding 10 acres in area, established prior to September 19, 1939. These cemeteries shall be subject to both of the following:

(A) The cemeteries shall be subject to the cemetery brokerage provisions of this act.

(B) The cemetery shall be subject to all of the provisions of this act if it collects a care, maintenance, or embellishment deposit or sets up a trust for burial purposes pursuant to Section 8775 of the Health and Safety Code, including funeral services such as mortuary, cremation, or other commodities or services furnished at the time of and in connection with such funeral or cremation.

(d) The board shall inspect the books, records, and premises of a crematory licensed under this chapter and of a certificate of authority holder operating a crematory. In making inspections, the board shall have access, during



1 regular office hours or the hours the crematory is in
 2 operation, to all books and records, the crematory
 3 building, the cremation chambers or furnaces, and the
 4 storage areas for human remains before and after
 5 cremation. Prior notification of the inspection may not be
 6 required to be given to the crematory licensee or the
 7 certificate of authority holder. If a crematory licensee or
 8 a certificate of authority holder fails to allow that
 9 inspection or any part thereof, it shall be grounds for the
 10 suspension or revocation of a license or other disciplinary
 11 action against the licensee. In the case of a certificate of
 12 authority holder, the suspension, revocation, or other
 13 disciplinary action may be limited to the operation of the
 14 crematory. A proceeding under this section shall be
 15 conducted in accordance with the provisions of this
 16 chapter relating to disciplinary proceedings.

17 (e) The board may, upon its own motion, and shall,
 18 upon the verified complaint in writing of a person,
 19 investigate the actions of a person or entity engaged in
 20 the business or acting in the capacity of a cemetery
 21 licensee.

22 7680.5. (a) An application for a certificate of
 23 authority shall be made in writing on the form prescribed
 24 by the board. The applicant shall show that the cemetery
 25 authority owns or is actively operating a cemetery in this
 26 state that is subject to the provisions of this act or that the
 27 applicant is in a position to commence operating a
 28 cemetery. The application shall be accompanied by the
 29 fee provided for in this chapter.

30 (b) The board may require that proof as it deems
 31 advisable concerning the compliance by the applicant to
 32 the laws, rules, regulations, ordinances, and orders
 33 applicable to a cemetery authority.

34 7681. (a) In reviewing an application for a certificate
 35 of authority, the board may consider acts of incorporators,
 36 officers, directors, and stockholders of the applicant, that
 37 constitute grounds for the denial of a certificate of
 38 authority under Division 1.5 (commencing with Section
 39 475).



1 (b) Upon receipt of an application for a certificate of
2 authority, the board may cause an investigation to be
3 made of the physical status, plans, specifications, and
4 financing of the proposed cemetery, and any other
5 qualifications required of the applicant under this act,
6 and for this purpose may subpoena witnesses, administer
7 oaths, and take testimony.

8 (c) At the time of the filing of the application, the
9 applicant shall pay the sum fixed by the board at not in
10 excess of four hundred dollars (\$400) to defray the
11 expenses of investigation. In the event the sum shall be
12 insufficient to defray all of the expenses, the applicant
13 shall within five days after request therefor deposit an
14 additional sum sufficient to defray those expenses,
15 provided that the total sum shall not exceed nine hundred
16 dollars (\$900).

17 7681.5. (a) The board may, in accordance with
18 appropriate rules and regulations, authorize interments
19 in cemeteries for which there is no currently valid
20 certificate of authority outstanding if the board finds that
21 rights to interment therein will otherwise be impaired.
22 However, nothing in this section authorizes sales of lots,
23 vaults, or niches by cemeteries for which there is no
24 currently valid certificate of authority. Interments
25 permitted under this section shall be conducted by
26 persons authorized by the board in accordance with its
27 regulations, and Section 7711.5 is not applicable to those
28 interments.

29 (b) The board shall be entitled to inspect and copy
30 cemetery records necessary to the performance of
31 interments under this section, and a person having
32 custody of those records shall permit inspection and
33 copying thereof for this purpose. The board may apply to
34 the superior court for the county in which the cemetery
35 is located for an order temporarily transferring custody of
36 cemetery records to it for purposes of this section.

37 7682. The board shall adopt, and may from time to
38 time amend, rules and regulations prescribing standards
39 of knowledge and experience and financial responsibility
40 for applicants for certificates of authority.



1 7682.5. (a) Except as otherwise provided in this code,
2 a person may not engage in the business of, act in the
3 capacity of, advertise or assume to act as, a cemetery
4 broker or cemetery sales agent in this state without first
5 obtaining a license from the board.

6 (b) A person engaged in the business or acting in the
7 capacity of a broker or a sales agent within this state may
8 not bring or maintain an action in the courts of this state
9 for the collection of compensation for the performance of
10 an act specified in this article without alleging and
11 proving that he or she was a duly licensed cemetery
12 broker or cemetery sales agent at the time the alleged
13 cause of action arose.

14 7683. This article does not apply to the following cases
15 or to the following persons:

16 (a) A person acting with reference to an occasional
17 sale of his or her own property.

18 (b) A regular officer of a cemetery corporation
19 holding a certificate of authority acting with reference to
20 the corporation's property when he or she receives no
21 special compensation therefor.

22 (c) A person making an occasional sale under a duly
23 executed power of attorney from others.

24 (d) The services rendered by an attorney at law in
25 performing his or her duties as such.

26 (e) A receiver, trustee in bankruptcy, a person acting
27 under orders of a court, or a trustee selling under a deed
28 of trust.

29 (f) A real estate broker or real estate sales agent, acting
30 as such in connection with the sale, lease, or exchange of
31 real property, or interest therein, when the transfer of
32 cemetery property is purely incidental to the sale, lease,
33 or exchange of real property.

34 7684. An act, other than an occasional sale, of buying
35 or selling, leasing, or exchanging cemetery property or
36 interment services of or for another or on his or her own
37 account, or offering for another or for his or her own
38 account to buy or sell, lease, or exchange cemetery
39 property or interment services, or negotiating the
40 purchase or sale, lease, or exchange of cemetery property



1 or interment services, or negotiating the purchase or sale,
2 lease, or exchange, or listing or soliciting, or negotiating
3 a loan on or leasing of cemetery property or interment
4 services constitutes the person making an offer, sale or
5 purchase, exchange, or lease, or negotiating the loan, or
6 listing or soliciting, a cemetery broker or cemetery sales
7 agent.

8 7684.5. Application for licensure as a cemetery broker
9 shall be made in writing on the form prescribed by the
10 board and filed at the principal office of the board. The
11 application shall be accompanied by the original
12 cemetery broker's license fee.

13 7685. Application for license as a cemetery sales agent
14 shall be made in writing on the form prescribed by the
15 board and filed at the principal office of the board. The
16 application shall be signed by the applicant, and shall be
17 accompanied by the cemetery sales agent's license fee.

18 7685.5. The board shall investigate the qualification of
19 an applicant. Except as otherwise prescribed in this
20 article, the board may issue the license upon a showing
21 satisfactory to it that the following facts exist:

22 (a) The applicant is properly qualified to perform the
23 duties of a cemetery broker or sales agent.

24 (b) Granting the license will not be against public
25 interest.

26 (c) The applicant intends actively and in good faith to
27 carry on the business of a cemetery broker or a cemetery
28 sales agent.

29 (d) In the case of a corporate applicant, the articles of
30 incorporation permit it to act as a cemetery broker.

31 (e) In the case of an association or partnership
32 applying for a license, its articles of association or
33 agreement of partnership authorize it to act as a
34 cemetery broker.

35 (f) The license is not being secured for the purpose of
36 permitting the applicant to advertise as a cemetery
37 broker or sales agent without actually engaging in this
38 business.



1 (g) The applicant has not committed acts or crimes
2 constituting grounds for denial of licensure under Section
3 480.

4 7686. (a) A cemetery broker who does not possess a
5 certificate of authority shall, in addition to the
6 requirements of this chapter, file with the board a
7 satisfactory bond to the people of the State of California,
8 duly executed by a sufficient surety or sureties to be
9 approved by the board, in the amount of ten thousand
10 dollars (\$10,000).

11 (b) The bond shall be conditioned for the honest and
12 faithful performance by the broker and his or her sales
13 agents and employees of an undertaking as a licensed
14 cemetery broker or sales agent or employee of the broker
15 at any time when licensed under this chapter, and the
16 strict compliance with the provisions of this chapter and
17 of Division 8 (commencing with Section 8100) of the
18 Health and Safety Code relating to cemeteries, and the
19 honest and faithful application of all funds received.

20 (c) The bond shall be further conditioned upon the
21 payment of all damages suffered by a person damaged or
22 defrauded by reason of the violation of any of the
23 provisions of this chapter or of Division 8 (commencing
24 with Section 8100) of the Health and Safety Code relating
25 to cemeteries, or by reason of the violation of the
26 obligation of the broker as an agent, as these obligations
27 are laid down by the Civil Code, or by reason of a fraud
28 connected with or growing out of any transactions
29 contemplated by this chapter or Division 8 (commencing
30 with Section 8100) of the Health and Safety Code.

31 7686.5. (a) The board shall ascertain by written
32 examination that the applicant, or, in case of a
33 partnership or corporation applicant for a cemetery
34 broker's license, that an officer, agent, or member thereof
35 through whom it proposes to act as a cemetery licensee,
36 has an appropriate knowledge of the English language,
37 including reading, writing, and spelling, and of
38 elementary arithmetic, and a fair understanding of all of
39 the following:



1 (1) Cemetery associations, cemetery corporations,
2 and duties of directors.

3 (2) Plot ownership, deeds, certificates of ownership,
4 contracts of sale, liens, and leases.

5 (3) Establishing, dedicating, maintaining, managing,
6 operating, improving, and conducting a cemetery.

7 (4) The care, preservation, and embellishment of
8 cemetery property.

9 (5) The care and preservation of endowment care
10 funds, trust funds, and the investment thereof.

11 (b) An applicant shall also have a general and fair
12 understanding of the obligations between principal and
13 agent, of the principles of cemetery brokerage practice,
14 and the business ethics pertaining thereto, as well as of
15 the provisions of this act relating to cemetery brokerage.

16 7687. (a) The board may, in its discretion, waive the
17 examination of an applicant for a cemetery broker's
18 license who held an unrevoked or unsuspended cemetery
19 license on June 30 of the preceding fiscal year as an
20 individual broker, an officer of a corporation, or member
21 of a partnership.

22 (b) The board may waive the examination of an
23 applicant for a cemetery sales agent's license who held an
24 unrevoked or unsuspended cemetery sales agent's license
25 on June 30 of the preceding fiscal year and who previously
26 qualified by passing a written examination.

27 7687.5. (a) Upon receipt of the application and fee
28 specified in Section 7685, the board shall issue, without
29 examination, to a person who otherwise qualifies, a
30 temporary sales agent's license.

31 (b) The temporary license shall be valid for a period
32 of three months from the date of issuance,
33 notwithstanding the fact that the fiscal year may
34 terminate within the three months.

35 (c) An applicant may not be entitled to more than one
36 temporary license without examination.

37 7688. (a) The board may not grant an original
38 cemetery broker's license to a person who is not a
39 resident of this state. A change of residence to another
40 state shall terminate the license.



1 (b) The board may not grant an original cemetery
 2 broker's license to a person who has not held a cemetery
 3 sales agent's license for at least two years prior to the date
 4 of his or her application for the broker's license, and
 5 during the time was not actively engaged in the business
 6 of a cemetery sales agent except that if an applicant for
 7 a cemetery broker's license, having at least the equivalent
 8 of two years of general cemetery experience, files a
 9 written petition with the board setting forth his or her
 10 qualifications and experience and if the board approves,
 11 he or she may be issued a cemetery broker's license
 12 immediately upon passing the appropriate examinations
 13 and satisfying the other requirements of this article.

14 7688.5. (a) When a cemetery brokerage license is
 15 issued to a cemetery brokerage corporation, if it desires
 16 any of its officers, other than the officer through whom it
 17 is already licensed, to act under its license as a cemetery
 18 broker, it shall procure an additional license for each
 19 officer.

20 (b) When a cemetery brokerage license is granted to
 21 a cemetery brokerage partnership, if it desires any of its
 22 members, other than the one through whom it is already
 23 licensed, to act as a cemetery broker, it shall procure an
 24 additional license for each member.

25 (c) An officer of a corporation through whom it is
 26 licensed to act as a cemetery broker, and a member of a
 27 partnership through whom it is licensed to act as a
 28 cemetery broker, is, while so employed under that
 29 license, a licensed cemetery broker, but licensed only to
 30 act as such for and on behalf of the corporation or the
 31 partnership, as officer or member, respectively.

32 7689. (a) The licenses of cemetery brokers and sales
 33 agents shall be prominently displayed in the office of the
 34 broker.

35 (b) The cemetery sales agent's license shall remain in
 36 the possession of the licensed cemetery broker employer
 37 until canceled or until the sales agent leaves the employ
 38 of the broker.



1 (c) Immediately upon the sales agent's withdrawal
2 from the employ of the broker, the broker shall return the
3 sales agent's license to the board for cancellation.

4 (d) A license canceled but not suspended or revoked
5 may be reinstated by the board within the fiscal year
6 upon receipt of an application therefor and payment of
7 the reinstatement fee.

8 7689.5. (a) A licensed cemetery broker shall have
9 and maintain a definite place of business in this state that
10 serves as his or her office for the transaction of business.

11 (b) A cemetery license may not authorize the licensee
12 to do business except from the location for which the
13 cemetery license was issued.

14 (c) A written notice shall be given the board of a
15 change of business location by a cemetery broker,
16 whereupon the board shall issue a new cemetery license
17 for the unexpired period.

18 (d) The change or abandonment of a business location
19 without notification to the board shall result in automatic
20 cancellation of the license for that location.

21 7690. (a) If the applicant for a cemetery broker's
22 license maintains more than one place of business within
23 the state, he or she shall apply for and procure an
24 additional license for each branch office the broker
25 maintains. An application for a branch office license shall
26 state the name of the person and the location of the place
27 of business for which the license is desired.

28 (b) The board may determine whether or not a broker
29 is engaging in a cemetery brokerage business at or from
30 a particular location that requires the issuance of a branch
31 office license.

32 7690.5. A cemetery broker shall erect and maintain a
33 sign on which his or her name is clearly shown in a
34 conspicuous place on the premises to indicate that he or
35 she is a licensed cemetery broker. The size and place of
36 the sign shall conform to regulations that may be adopted
37 by the board.

38 7691. An application on the form prescribed by the
39 board for the renewal of an unrevoked and unsuspended
40 license filed before midnight of June 30 of the year for



1 which the unrevoked and unsuspended license was
2 issued, accompanied by the applicable renewal fee,
3 entitles the applicant to continue operating under his or
4 her existing license after its usual expiration date, if not
5 previously suspended or revoked, and until the date that
6 he or she is notified in writing that the application has
7 been granted or denied.

8 7691.5. For a violation of any of the provisions of
9 Sections 7689, 7689.5, and 7690.5, the board may
10 temporarily suspend or permanently revoke the license
11 of the cemetery licensee in accordance with the
12 provisions of this chapter relating to a disciplinary
13 proceeding.

14 7692. (a) A cemetery broker, other than a cemetery
15 corporation holding a certificate of authority, and a
16 cemetery sales agent shall include in any advertising a
17 statement that he or she is acting as a cemetery broker or
18 cemetery sales agent.

19 (b) For a violation of this section, the board may
20 temporarily suspend or permanently revoke the license
21 of the cemetery licensee in accordance with the
22 provisions of this chapter relating to a disciplinary
23 proceeding.

24 7693. A crematory established, operated, or
25 maintained, other than by a licensed cemetery authority,
26 may be operated by a corporation, partnership, or natural
27 person, provided that a valid crematory license shall have
28 been issued by the board.

29 7693.5. The board shall adopt, and may from time to
30 time amend, rules and regulations prescribing standards
31 of knowledge and experience and financial responsibility
32 for applicants for a crematory license.

33 7694. An application for a crematory license shall be
34 made in writing on the form prescribed by the board and
35 filed at the principal office of the board. The application
36 shall be accompanied by the fee provided for in this
37 article and shall show that the applicant owns or is
38 actively operating a crematory in this state or that the
39 applicant is in a position to commence operating such a
40 crematory.



1 7694.5. (a) The board may require that proof as it
2 deems advisable concerning the compliance by an
3 applicant with all the laws, rules, regulations, ordinances,
4 and orders applicable to the applicant and shall not issue
5 a crematory license until it has satisfied itself that the
6 public interest will be served by the applicant.

7 (b) In reviewing an application for a crematory
8 license, the board may consider acts of the applicant,
9 including acts of incorporators, officers, directors, and
10 stockholders of the applicant, that constitute grounds for
11 the denial of a crematory license under Division 1.5
12 (commencing with Section 475).

13 7695. (a) Upon receipt of an application for a
14 crematory license, the board may cause an investigation
15 to be made of the physical status, plans, specifications, and
16 financing of the proposed crematory, the character of the
17 applicant, including, if applicable, its officers, directors,
18 shareholders, or members, and any other qualifications
19 required of the applicant under this article, and for this
20 purpose may subpoena witnesses, administer oaths, and
21 take testimony.

22 (b) At the time of the filing of the application required
23 by this article, the applicant shall pay the sum fixed by the
24 board at not in excess of four hundred dollars (\$400) to
25 defray the expenses of investigation. In the event the sum
26 shall be insufficient to defray all of the expenses, the
27 applicant shall within five days after request therefor
28 deposit an additional sum sufficient to defray these
29 expenses, provided that the total sum shall not exceed the
30 sum of nine hundred dollars (\$900).

31 7695.5. (a) The board or its designee shall inspect the
32 books, records, and premises of a crematory licensed
33 under this chapter or a certificate of authority holder
34 operating a crematory. In making those inspections, the
35 board or its designee shall have access to all books and
36 records, the crematory building, the cremation chambers
37 or furnaces, and the storage areas for human remains
38 before and after cremation, during regular office hours or
39 the hours the crematory is in operation. Prior notification



1 of the inspection is not required to be given to the
2 certificate of authority holder or the crematory licensee.

3 (b) If a certificate of authority holder or a crematory
4 licensee fails to allow that inspection or any part thereof,
5 it shall be grounds for the suspension or revocation of a
6 license or other disciplinary action against the licensee. In
7 the case of a certificate of authority holder, the
8 suspension, revocation, or other disciplinary action may
9 be limited to the operation of the crematory.

10 (c) A proceeding under this section shall be conducted
11 in accordance with the provisions of this chapter relating
12 to disciplinary proceedings.

13 7696. (a) A crematory licensee under this article may
14 not conduct a cremation of any remains more than 72
15 hours after delivery of the remains, unless the remains
16 have been preserved in the interim by refrigeration or
17 embalming.

18 (b) A crematory licensee under this article may not
19 conduct a cremation unless the licensee has a contractual
20 relationship with a licensed cemetery authority for final
21 disposition of cremated human remains by burial,
22 entombment, or inurnment of any and all remains that
23 are not lawfully disposed of or that are not called for or
24 accepted by the person or persons entitled to the custody
25 and control of the disposition thereof within 90 days of the
26 date of death.

27 7696.5. A crematory licensee shall keep those records
28 that may be required by the board to assure compliance
29 with all laws relating to the disposition of cremated
30 human remains and shall file annually with the board, a
31 report in the form prescribed by the board, describing the
32 operations of the licensee, including the number of
33 cremations made, the disposition thereof, and other
34 information as the board may, from time to time, require.

35 7697. (a) A crematory for which a crematory license
36 is required shall be operated under the supervision of a
37 qualified manager in accordance with rules adopted by
38 the board.

39 (b) A qualified manager shall be required to
40 successfully pass a written examination evidencing an



1 understanding of the applicable provisions of this code
2 and of the Health and Safety Code.

3 7697.5. (a) Except as provided in subdivision (b), a
4 person may not dispose of or offer to dispose of cremated
5 human remains unless registered as a cremated remains
6 disposer by the board.

7 (b) This article may not apply to (1) a person,
8 partnership, or corporation holding a certificate of
9 authority as a cemetery, crematory license, cemetery
10 broker's license, cemetery sales agent's license, or funeral
11 director's license, or (2) a person having the right to
12 control the disposition of the cremated remains of a
13 person or that person's designee if the person does not
14 dispose of or offer to dispose of more than 10 cremated
15 human remains within a calendar year.

16 7698. Registration shall be on the form prescribed by
17 the board and shall include, but not be limited to, the full
18 name of the registrant, a business and residence address,
19 description and identification of aircraft or boats that may
20 be used in dispensing cremated human remains, and the
21 area to be served. A registration application shall be
22 accompanied by the cremated remains disposer fee.

23 7698.5. An aircraft used for the scattering of cremated
24 human remains shall be validly certified by the Federal
25 Aviation Administration. A boat or vessel used for the
26 scattering of cremated human remains shall be registered
27 with the Department of Motor Vehicles or documented
28 by a federal agency, as appropriate. The certification or
29 registration shall be available for inspection by the board
30 or its designee.

31 7699. A cremated remains disposer who scatters
32 cremated human remains without specific written
33 authorization and instructions from the person having
34 the right to control the disposition of the remains, or who
35 scatters remains in a manner not in accordance with those
36 instructions, shall be subject to disciplinary action.

37 7699.5. A cremated remains disposer shall provide the
38 person authorizing the scattering of the cremated human
39 remains with a copy of the completed permit for
40 disposition of human remains pursuant to Chapter 7



1 (commencing with Section 10375) of Division 9 of the
2 Health and Safety Code within 60 days of the date
3 scattering was authorized.

4 7700. A cremated remains disposer shall file an annual
5 report on a form prescribed by the board. The report shall
6 include, but not be limited to, the number of cases
7 handled and the area of scattering. The report shall cover
8 the fiscal year ending on June 30 and shall be filed with
9 the board no later than September 30 of each year.

10 7700.5. A cremated remains disposer's registration
11 shall expire at midnight on September 30 of each year. A
12 person desiring to renew his or her registration shall file
13 an application for renewal on a form prescribed by the
14 board accompanied by the required fee. The board shall
15 not renew the registration of a person who has not filed
16 the required annual report until he or she has filed a
17 complete annual report with the board.

18 7701. If a registrant fails to apply for renewal of his or
19 her cremated remains disposer registration prior to
20 midnight of September 30 of the year for which the
21 registration was issued, a renewal may not be issued
22 except upon payment of an amount equal to the renewal
23 fee plus 50 percent of the renewal fee, but not more than
24 the renewal fee plus twenty-five dollars (\$25).

25 7701.5. A violation of this article shall also be grounds
26 for disciplinary action.

27 7702. Upon grounds provided in this act, the license
28 of a cemetery licensee and the certificate of authority of
29 a cemetery corporation may be revoked or suspended in
30 accordance with the provisions of this article.

31 7702.5. A cremated remains disposer shall be subject
32 to and disciplined by the board in accordance with this
33 article.

34 7703. A crematory licensee shall be subject to and
35 disciplined by the board in accordance with this article.

36 7703.5. Unprofessional conduct by a licensee or
37 registrant or by an agent or employee of a licensee or
38 registrant constitutes grounds for disciplinary action.
39 Unprofessional conduct includes, but is not limited to, all
40 of the following:



1 (a) Violating or attempting to violate, directly or
2 indirectly, or assisting in or abetting the violation of this
3 chapter or a regulation adopted thereunder, or a federal
4 or state law or regulation governing the disposition of
5 human remains, operation of a cemetery or a crematory,
6 the sale of cemetery property, or the sale of crematory
7 services or commodities.

8 (b) Negligence in performing an act related to the
9 operation of a cemetery or crematory.

10 7704. The board may temporarily suspend or
11 permanently revoke a license at any time where the
12 licensee, within the immediately preceding three years,
13 while a cemetery licensee performing or attempting to
14 perform any of the acts specified in this chapter, has been
15 guilty of any of the following:

16 (a) Making a substantial misrepresentation.

17 (b) Making a false statement of a character likely to
18 influence or persuade.

19 (c) Engaging in a continued and flagrant course of
20 misrepresentation or making of a false promise through
21 a cemetery agent or salesperson.

22 (d) Acting for more than one party in a transaction
23 without disclosure to or consent of all parties thereto.

24 (e) Comingling the money or other property of his or
25 her principal with his or her own.

26 (f) Engaging in the practice of claiming or demanding
27 a fee, compensation, or commission under an exclusive
28 agreement authorizing or employing a licensee to sell,
29 buy, or exchange cemetery property for compensation or
30 commission where the agreement does not contain a
31 definite, specified date of final and complete termination.

32 (g) Engaging in the claiming or taking by a licensee of
33 a secret or undisclosed amount of compensation,
34 commission, or profit or the failure of a licensee to reveal
35 to the employer of the licensee the full amount of the
36 licensee's compensation, commission, or profit under an
37 agreement authorizing or employing the licensee to sell,
38 buy, or exchange cemetery property for compensation or
39 agreement evidencing the meeting of the minds of the
40 contracting parties, regardless of the form of the



1 agreement, whether evidenced by documents in an
2 escrow or by another or different procedure.

3 (h) Engaging in the use by a licensee of a provision
4 allowing the licensee an option to purchase in an
5 agreement authorizing or employing the licensee to sell,
6 buy, or exchange cemetery property for compensation or
7 commission, except when the licensee prior to or
8 coincident with election to exercise the option to
9 purchase reveals in writing to the employer the full
10 amount of the licensee's profit and obtains the written
11 consent of the employer approving the amount of the
12 profit.

13 (i) Engaging in prohibited misrepresentations and
14 false statements also include misrepresentations and false
15 statements as to other property than that which the
16 cemetery licensee may be selling or attempting to sell.

17 (j) Procuring a cemetery license, for himself or herself
18 or for a sales agent, by fraud, misrepresentation, or deceit.

19 (k) Any other conduct, whether of the same or a
20 different character than specified in this section, that
21 constitutes fraud or dishonest dealing.

22 7704.5. The board may suspend or revoke the license
23 of a cemetery licensee who, within three years
24 immediately preceding has done any of the following:

25 (a) Been convicted of a crime substantially related to
26 the qualifications, functions, and duties of such licensee.
27 The record of conviction, or a certified copy thereof, shall
28 be conclusive evidence of the conviction.

29 (b) Knowingly authorized, directed, connived at, or
30 aided in the publication, advertisement, distribution, or
31 circulation of a material false statement or representation
32 concerning his or her business or any cemetery property
33 offered for sale.

34 (c) Willfully disregarded or violated any of the
35 provisions of this chapter relating to cemetery brokerage.

36 (d) Acted or conducted himself or herself in a manner
37 that would have warranted the denial of his or her
38 application for a cemetery license, or for a renewal
39 thereof.



1 7705. A plea or verdict of guilty or a conviction
2 following a plea of nolo contendere is deemed to be a
3 conviction within the meaning of this article. The board
4 may order the license suspended or revoked, or may
5 decline to issue a license, when the time for appeal has
6 lapsed, or the judgment of conviction has been affirmed
7 on appeal or when an order granting probation is made
8 suspending the imposition of sentence, irrespective of a
9 subsequent order under the provisions of Section 1203.4
10 of the Penal Code allowing a person to withdraw his or
11 her pleas of guilty and to enter a plea of not guilty, or
12 setting aside the verdict of guilty, or dismissing the
13 accusation, information, or indictment.

14 7705.5. (a) When a sales agent is discharged by his or
15 her employer for a violation of a provision of this article
16 prescribing a ground for disciplinary action, a verified
17 written statement of the facts with reference thereto shall
18 be filed immediately with the board by the employer.

19 (b) If the employer fails to notify the board as required
20 by this section, the director may temporarily suspend or
21 permanently revoke the cemetery license of the
22 employer in accordance with the provisions of this
23 chapter.

24 7706. The board may deny, suspend, or revoke the
25 cemetery license of a corporation as to an officer or agent
26 acting under its cemetery license, and the cemetery
27 license of a partnership as to any member acting under
28 its cemetery license, without revoking the cemetery
29 license of the corporation or of the partnership.

30 7706.5. The proceedings under this article shall be
31 conducted in accordance with Chapter 5 (commencing
32 with Section 11500) of Part 1 of Division 3 of Title 2 of the
33 Government Code, and the board shall have all the
34 powers granted therein.

35 7707. (a) A cemetery broker may not employ or
36 compensate, directly or indirectly, a person for
37 performing an act within the scope of this chapter unless
38 that person is a licensed cemetery broker, or a cemetery
39 sales agent licensed under the cemetery broker
40 employing or compensating him or her.



1 (b) A cemetery sales agent may not be employed by
2 or accept compensation from a person other than the
3 cemetery broker under whom he or she is, at that time,
4 licensed.

5 (c) A sales agent may not pay compensation for
6 performing an act within the scope of this article to a
7 licensee except through the cemetery broker under
8 whom he or she is at the time licensed.

9 (d) For a violation of a provision of this section, the
10 board may temporarily suspend or permanently revoke
11 the license of the cemetery licensee in accordance with
12 the provisions of this act relating to disciplinary
13 proceedings.

14 7707.5. (a) It is a misdemeanor for a person, whether
15 obligor, escrowholder, or otherwise, to pay or deliver to
16 another a compensation for performing an act within the
17 scope of this article who is not known to be or who does
18 not present evidence to the payor of licensure as a
19 cemetery broker at the time the compensation is earned.

20 (b) If the violator of a provision of this section is a
21 licensee, the board may temporarily suspend or
22 permanently revoke the license of the cemetery licensee
23 in accordance with the provisions of this act relating to
24 disciplinary proceedings.

25 7708. A person acting as a cemetery broker or
26 cemetery sales agent without a license, or who advertises
27 so as to indicate licensure as a cemetery broker without
28 being so licensed, is guilty of a misdemeanor. If the person
29 is a corporation, it shall be punished by a fine of not to
30 exceed five thousand dollars (\$5,000).

31 7708.5. (a) A cemetery sales agent or cemetery
32 broker who sells, causes to be sold, or offers for sale
33 cemetery property upon the promise, guarantee, or
34 representation to the purchaser that the same may be
35 resold or repurchased at a financial profit is guilty of a
36 misdemeanor.

37 (b) For violation of a provision of this section, the
38 board may temporarily suspend or permanently revoke
39 the license of the cemetery sales agent or cemetery



1 broker in accordance with the provisions of this act
2 relating to disciplinary proceedings.

3 (c) Violation of a provision of this section by a
4 cemetery sales agent or employee of a licensed cemetery
5 broker may not cause the suspension or revocation of the
6 license of the employer of the sales agent or employee
7 unless it appears upon a hearing by the board that the
8 employer had guilty knowledge of the violation.

9 7709. (a) An officer, agent, or employee of a
10 company, and a person who knowingly authorizes,
11 directs, or aids in the publication, advertisement,
12 distribution, or circulation of a false statement or
13 representation concerning a cemetery or cemetery
14 brokerage business and a person who, with knowledge
15 that an advertisement, pamphlet, prospectus, or letter
16 concerning a cemetery brokerage business or a written
17 statement that is false or fraudulent, issues, circulates,
18 publishes, or distributes the same, or causes it to be issued,
19 circulated, published, or distributed, or who in any other
20 respect willfully violates or fails, omits, or neglects to
21 obey, observe, or comply with an order, permit, decision,
22 demand, or requirement of the board under a provision
23 of this act relating to cemetery brokerage, is guilty of a
24 misdemeanor.

25 (b) If the violator is a cemetery licensee, he or she shall
26 be held to trial by the board for a suspension or revocation
27 of the cemetery license, as provided in the provisions of
28 this act relating to disciplinary proceedings.

29 7709.5. A person, other than a person making an
30 occasional sale, who advertises cemetery property for sale
31 or exchange, without being duly licensed as a cemetery
32 broker or a cemetery sales agent, or without possessing a
33 certificate of authority as a cemetery corporation, is guilty
34 of a misdemeanor. If the person is a corporation, it shall
35 be punished by a fine of up to five thousand dollars
36 (\$5,000).

37 7710. It is a misdemeanor for a person, firm, or
38 corporation to cremate human remains or to engage in
39 the disposition thereof without a valid crematory license
40 or a valid certificate of authority issued by the board.



1 7710.5. A person who scatters cremated human
2 remains without a valid registration and who is not
3 otherwise exempt from this article shall be guilty of a
4 misdemeanor. The remains of each person scattered shall
5 constitute a separate violation.

6 7711. A person who scatters cremated human remains
7 without specific written instructions from the person
8 having the right to control the disposition of the remains
9 or who scatters remains in a manner not in accordance
10 with those instructions shall be guilty of a misdemeanor.

11 7711.5. It is a misdemeanor for a cemetery
12 corporation to make an interment or perform a
13 cremation without a valid, subsisting, and unsuspended
14 certificate of authority. Each interment or cremation
15 shall be a separate violation.

16 7712. Notwithstanding any other provision of law, the
17 amount of an administrative fine assessed by the board for
18 each inspection or investigation made with respect to a
19 violation may not be limited.

20 7712.5. The fees for cemetery licenses at all periods of
21 the fiscal year are the same as provided in this article. A
22 cemetery license fee is payable in advance of issuing the
23 license and at the time of filing the application. Except for
24 a temporary salesperson's license, for which other
25 provision is made, a license shall be issued for the fiscal
26 year and shall expire on June 30 of each fiscal year at
27 midnight. The amount of fees prescribed for a license or
28 certificate of authority under this act is that fixed by the
29 following provisions of this article.

30 7713. (a) The original cemetery broker's license fee
31 shall be fixed by the board at not more than four hundred
32 dollars (\$400).

33 (b) The original cemetery broker's license fee is
34 payable at the time of the filing of an application for an
35 original cemetery broker's license.

36 (c) A part of an original cemetery broker's license fee
37 or reexamination fee is not refundable. It is deemed
38 earned upon receipt by the board, whether the
39 accompanying application for license is complete or
40 incomplete.



1 7713.5. The reexamination fee for an applicant for a
2 cemetery broker's license shall be fixed by the board at
3 not more than one hundred dollars (\$100).

4 7714. The annual renewal fee for a cemetery broker's
5 license shall be fixed by the board at not more than three
6 hundred dollars (\$300).

7 7714.5. If the licensee is a cemetery brokerage
8 corporation, the license issued to it entitles one officer
9 only, on behalf of the corporation, to engage in the
10 business of a cemetery broker without the payment of
11 further fee, the officer to be designated in the application
12 of the corporation for a license. For each other officer of
13 a licensed cemetery brokerage corporation, through
14 whom it engages in the business of a cemetery broker, the
15 annual renewal fee, in addition to the fee paid by the
16 corporation, shall be fixed by the board at not more than
17 one hundred dollars (\$100).

18 7715. If the licensee is a cemetery brokerage
19 partnership, the license issued to it entitles one member
20 only of the partnership to engage on behalf of the
21 partnership in the business of a cemetery broker, which
22 member shall be designated in the application of the
23 partnership for a license. For each other member of the
24 partnership who, on behalf of the partnership, engages in
25 the business of a cemetery broker, the annual renewal
26 fee, in addition to the fee paid by the partnership, shall be
27 fixed by the board at not more than one hundred dollars
28 (\$100).

29 7715.5. A branch office broker's license fee shall be
30 fixed by the board at not more than one hundred dollars
31 (\$100).

32 7716. (a) The cemetery sales agent's license fee shall
33 be fixed by the board at not more than thirty dollars (\$30).

34 (b) A cemetery sales agent's license fee is payable
35 upon the filing of each application for a cemetery sales
36 agent's license.

37 (c) A part of an original or temporary cemetery sales
38 agent's license fee is not refundable. It is deemed earned
39 upon receipt by the board, whether the accompanying
40 application for license is complete or incomplete.



1 (d) If the applicant for a cemetery sales agent’s license
2 fails the required written examination, he or she may be
3 permitted to take another examination upon the filing of
4 an application for reexamination and the payment of a
5 reexamination fee that shall be fixed by the board at not
6 more than fifteen dollars (\$15).

7 (e) The annual renewal fee for a cemetery sales
8 agent’s license shall be fixed by the board at not more
9 than twenty-five dollars (\$25).

10 7716.5. (a) The cremated remains disposer
11 registration fee shall be one hundred dollars (\$100).

12 (b) The renewal fee for a cremated remains disposer
13 registration shall be fifty dollars (\$50).

14 7717. (a) For change of name or of address of
15 licensee on the records of the board, the fee shall be fixed
16 by the board at not more than twenty-five dollars (\$25).

17 (b) For transfer of a sales agent’s license upon change
18 of employer, the fee shall be fixed by the board at not
19 more than twenty-five dollars (\$25).

20 (c) For a duplicate license the fee shall be fixed by the
21 board at not more than twenty-five dollars (\$25).

22 7717.5. (a) For reinstatement of a license within the
23 fiscal year, the fee shall be fixed at not more than
24 twenty-five dollars (\$25).

25 (b) As used in this section, “reinstatement of a license”
26 means the reissuance of a canceled cemetery broker’s
27 license, or a cemetery sales agent’s license which was
28 canceled during the year for which it was issued upon the
29 sales agent’s withdrawal from the employ of a cemetery
30 broker.

31 7718. (a) A cemetery authority operating a
32 cemetery shall pay an annual renewal fee for each
33 cemetery to be fixed by the board at not more than of four
34 hundred dollars (\$400), plus an additional charge of not
35 more than fifty cents (\$0.50) for each burial,
36 entombment, or inurnment, and not more than one
37 dollar (\$1) for each cremation, made during the
38 preceding full calendar year, which charges shall be
39 deposited in the State Funeral and Cemetery Services
40 Fund. If the cemetery authority performed the



1 cremation and either the burial, entombment, or
2 inurnment, the total of all additional charges shall not be
3 more than one dollar (\$1).

4 (b) The board shall issue a renewal of the certificate of
5 authority to the cemetery authority upon payment of
6 these charges.

7 (c) Failure to pay these charges prior to February 1 for
8 each year shall be cause for suspension of the certificate
9 of authority. The certificate may be restored upon
10 payment to the board of the prescribed charges.

11 (d) A crematory licensee operating a crematory
12 pursuant to a license issued in compliance with this article
13 shall pay an annual renewal fee for each crematory, to be
14 fixed by the board at not more than four hundred dollars
15 (\$400), plus an additional charge of not more than fifty
16 cents (\$0.50) per cremation made during the preceding
17 full calendar year, which charges shall be deposited in the
18 State Funeral and Cemetery Services Fund.

19 7718.5. (a) If a person fails to apply for a renewal of
20 his or her license prior to midnight of June 30 of the year
21 for which the license was issued, a renewal license may
22 not be issued to him or her except upon payment of the
23 renewal fee for the license plus 50 percent of the renewal
24 fee, but not more than the renewal fee plus twenty-five
25 dollars (\$25).

26 (b) A person who fails to renew his or her license
27 within one year of the expiration date may not engage in
28 an activity authorized by the license unless he or she first
29 files the application required for an original license, pays
30 the original license fee, and otherwise complies with all
31 of the provisions of this act pertaining to the issuance of
32 an original license.

33 7719.5. (a) A cemetery authority shall file with the
34 board annually, on or before June 1, or within five months
35 after close of their fiscal year if a modified reporting
36 period has been granted by the board as provided for in
37 Section 7720, a written report on its endowment care fund
38 condition.



1 (b) The report shall be in the form prescribed by the
2 board and shall set forth, but not be limited to, all of the
3 following:

4 (1) The number of square feet of grave space and the
5 number of crypts and niches sold or disposed of under
6 endowment care by specific periods as set forth in the
7 form prescribed.

8 (2) The amount collected and deposited in both the
9 general and special endowment care funds segregated as
10 to the amounts for crypts, niches, and grave space by
11 specific periods as set forth either on the accrual or cash
12 basis at the option of the cemetery authority.

13 (3) A statement showing separately the total amount
14 of the general and special endowment care funds
15 invested in each of the investments authorized by law and
16 the amount of cash on hand not invested, which
17 statement shall actually show the financial condition of
18 the funds.

19 (4) A statement showing separately the location,
20 description, and character of the investments in which
21 the special endowment care funds are invested. The
22 statement shall show the valuations of securities held in
23 the endowment care fund as valued pursuant to Section
24 7725.

25 (5) A statement showing the transactions entered into
26 between the corporation or an officer, employee, or
27 stockholder thereof and the trustees of the endowment
28 care funds with respect to those endowment care funds.
29 The statement shall show the dates, amounts of the
30 transactions, and shall contain a statement of the reasons
31 for those transactions.

32 (6) No later than July 1, 1997, the board shall adopt
33 appropriate educational, experience, and examination
34 requirements to ensure that a licensee who is permitted
35 to receive, invest, and account for endowment care funds
36 has demonstrated competence in that area.

37 (c) The report shall be verified by the president or
38 vice president and one other officer of the cemetery
39 corporation and shall be certified by the accountant or
40 auditor preparing the report.



1 (d) If a cemetery authority files a written request prior
2 to the date the report is due, the board may, in its
3 discretion, grant an additional 30 days within which to file
4 the report.

5 7720. A cemetery authority requesting a change of
6 filing date of the endowment care fund report from a
7 calendar year to a fiscal year or a change in fiscal year shall
8 file a petition with the board prior to the close of the year
9 of request. The board may approve the petition provided
10 that a report may not be for a period of more than 12
11 months.

12 7720.5. The endowment care fund report shall state
13 the name of the trustee or trustees of the endowment
14 care fund. A change of a trustee shall be reported to the
15 board within a period of 30 days after the change is made.

16 7721. A copy of an annual audit report shall be
17 transmitted to the board and shall be a public record. It
18 shall also be open for public inspection at the offices of the
19 cemetery authority during normal business hours. If the
20 cemetery authority does not maintain offices in the
21 county in which its cemetery is located, it shall file a copy
22 of the annual audit report with the county clerk of the
23 county, which shall be subject to public inspection.

24 7721.5. (a) A cemetery authority that does not file its
25 report within the time prescribed by Section 7719.5 may
26 be assessed a fine by the board in an amount not to exceed
27 two hundred dollars (\$200) per month for a maximum of
28 five months. The amount of the fine shall be established
29 by regulation in accordance with the Administrative
30 Procedure Act (Chapter 3.5 (commencing with Section
31 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code).

33 (b) Failure to pay the fine within 15 days after receipt
34 of written notification of the assessment or, where a
35 timely request for waiver or reduction of the fine has
36 been filed, within 15 days after receipt of written
37 notification of the board's decision in the matter, shall be
38 cause for disciplinary action.

39 (c) A cemetery authority may request waiver or
40 reduction of a fine by making a written request. The



1 request shall be postmarked within the time specified
2 above for payment of the fine and shall be accompanied
3 by a statement showing good cause for the request.

4 (d) The board may, in its discretion, waive or reduce
5 the fine where a timely request is made and where the
6 cemetery authority has made a sufficient showing of good
7 cause for the waiver or reduction.

8 7722. (a) The board or its designee shall examine the
9 endowment care fund reports for compliance with the
10 requirements of the Health and Safety Code as to the
11 amount of endowment care funds collected and as to the
12 manner of investment of the funds.

13 (b) The board or its designee shall examine the
14 endowment care funds of a cemetery authority upon the
15 occurrence of any of the following:

- 16 (1) When it deems necessary and at least once a year.
- 17 (2) When the cemetery authority in charge of
18 endowment care funds fails to file the report in a timely
19 manner, as required by this article.
- 20 (3) When an examination is requested by verified
21 petition signed by 10 persons interested as lot owners or
22 members, alleging that the endowment care funds are
23 not in accordance with the law.

24 (4) When an examination is requested by a grand jury.
25 (c) The expense of the examination shall, in the
26 discretion of the board, be paid by the cemetery
27 authority, not exceeding one hundred dollars (\$100) per
28 day for each examiner engaged in the examination
29 whenever the examination requires more than two days.

30 (d) If a cemetery authority refuses to pay these
31 expenses in advance, the board shall refuse it a certificate
32 of authority and shall revoke any existing certificate of
33 authority. Examination expense money collected by the
34 board shall be paid into the State Treasury to the credit
35 of the State Board of Funeral and Cemetery Services
36 Fund.

37 (e) In making the examination, the board or its
38 designee shall:

- 39 (1) Enjoy free access to the books and records relating
40 to the endowment care funds, their collection and



1 investment, and the number of graves, crypts, and niches
2 under endowment care.

3 (2) Inspect and examine the endowment care funds to
4 determine their condition and the existence of the
5 investments.

6 (3) Ascertain if the cemetery corporation has
7 complied with all the laws applicable to endowment care
8 funds.

9 (f) The board or its designee may administer oaths and
10 examine under oath any person relative to the
11 endowment care fund. The examination shall be
12 conducted in the principal office of the person or body in
13 charge of the endowment care fund and shall be private.

14 (g) If an examination made by the board or its
15 designee, or a report filed with it, shows that there has not
16 been collected and deposited in the endowment care
17 funds the minimum amounts required by the Health and
18 Safety Code since September 19, 1939, the board shall
19 require the cemetery corporation to comply with
20 Sections 8743 and 8744 of the Health and Safety Code.

21 7722.5. Whenever the board finds, after notice and
22 hearing, that endowment care funds have been invested
23 in violation of the Health and Safety Code, it shall by
24 written order mailed to the person or body in charge of
25 the fund require the reinvestment of the funds in
26 conformity to that code within 30 days of the board's
27 finding. If the board finds extenuating circumstances, it
28 may extend the time period.

29 7723. (a) The superior court of the county in which
30 the principal office of the cemetery authority in charge
31 of endowment care funds is located shall, upon the filing
32 by the board of a verified application showing any of the
33 following conditions to exist, issue an order vesting title
34 to any endowment care funds of a cemetery authority in
35 the board, and directing the board to take possession of
36 all necessary books, records, property, real and personal,
37 and assets, and to conduct as conservator, the
38 management of the endowment care funds, or so much
39 thereof as the board may deem appropriate:



1 (1) That the cemetery authority has refused to submit
2 its books, papers, accounts, or affairs to the reasonable
3 examination of the board.

4 (2) That the cemetery authority has neglected to
5 observe an order of the board to make good within the
6 time prescribed by law a deficiency in its investments of
7 endowment care funds.

8 (3) That the cemetery authority is found, after an
9 examination, to be in such a condition that its further
10 management of its endowment care funds will be
11 hazardous to its members, plot holders, or to the public.

12 (4) That the cemetery authority has violated its
13 articles of incorporation or any law of the state.

14 (5) That an officer, director, agent, servant, or
15 employee of the cemetery authority person refuses to be
16 examined under oath relative to the endowment care
17 funds thereof.

18 (6) That a person has embezzled or otherwise
19 wrongfully diverted endowment care funds of the
20 cemetery authority.

21 (b) The order shall continue in force and effect until,
22 on the application either of the board or of the cemetery
23 authority, it shall, after a full hearing, appear to the court
24 that the ground for such order does not exist or has been
25 removed and that the cemetery authority can properly
26 resume title and possession of its property and the
27 management of its endowment care funds.

28 7723.5. (a) The board may, without notice and
29 before applying to the court for an order, take possession
30 of the endowment care funds and the books, records, and
31 accounts relating thereto of the cemetery authority, and
32 retain possession subject to the order of the court upon
33 any of the following circumstances:

34 (1) When it has been alleged by verified petition
35 pursuant to Section 7722.

36 (2) When the board on its own investigation
37 determines that there is probable cause to believe that
38 any of the conditions set forth in Section 7723 exist.



1 (3) When irreparable loss and injury to the
2 endowment care funds of a cemetery authority has
3 occurred or may occur unless the board acts immediately.

4 (b) A person having possession of and refusing to
5 deliver an asset, book, or record of a cemetery authority
6 against which a seizure order has been issued by the
7 board, shall be guilty of a misdemeanor and punishable by
8 a fine not exceeding one thousand dollars (\$1,000) or
9 imprisonment not exceeding one year, or by both fine
10 and imprisonment.

11 7724. Whenever the board makes any seizure as
12 provided in Section 7723.5, it shall be the duty of the
13 sheriff of a county of this state, and of the police
14 department of a municipal corporation therein, to
15 furnish, upon the demand of the board, those deputies,
16 patrolmen, or officers as may be necessary to assist the
17 board in making and enforcing the seizure.

18 7724.5. Within 15 days after effecting a seizure
19 pursuant to Section 7723.5, the board shall institute a
20 proceeding as provided for in Section 7723.

21 7725. In a report to the board, all bonds, debentures,
22 or other evidences of debt held by a cemetery
23 corporation if amply secured and if not in default as to
24 principal or interest, may be valued as follows:

25 (a) If purchased at par at the par value.

26 (b) If purchased above or below par on the basis of the
27 purchase price adjusted so as to bring the value to par at
28 maturity and so as to yield the effective rate of interest on
29 the basis at which the purchase was made.

30 (c) In this valuation of the purchase price, in no case
31 may the price be taken at a higher figure than the actual
32 market value at the time of purchase.

33 (d) A security or other evidence of debt if in default as
34 to principal or interest or if not amply secured shall not
35 be valued as an asset of the endowment care fund above
36 its market value.

37 7725.5. The board shall maintain, regulate, operate,
38 and control the property situated in Amador County,
39 referred to as the Elkin property in Judicial Council
40 Coordination Proceedings Nos. 1814 and 1817, Order Re



1 Proposed Neptune Memorial, Disposition of the Elkin
 2 Property, and Order Re Final Disposition of Ashes of the
 3 Sacramento Superior Court, and legally described as
 4 "Parcel 16-B as shown on the certain Record or Survey for
 5 Eugene S. Lowrance, et ux, filed for record May 17, 1971,
 6 in Book 17 of Maps and Plats at page 87, Amador County
 7 Records." The board shall administer and supervise
 8 endowment funds established by the court for the
 9 property. The board shall exercise the authority granted
 10 by this section for the sole purpose of protecting the
 11 human remains resting on the property and preserving
 12 the property in its natural state.

13 7726. The board is authorized to bring action to
 14 enforce the provisions of the law subject to its jurisdiction,
 15 in which actions it shall be represented by the Attorney
 16 General.

17
 18 Article 6. Consumer Protection
 19

20 7730. (a) Commencing January 1, 1996, the address,
 21 telephone number, and name of the board shall appear
 22 in 8-point boldface type on the first page of a contract for
 23 goods or services offered by a funeral establishment,
 24 cemetery authority, or crematory.

25 (b) No later than July 1, 1997, the board shall adopt
 26 regulations that require clear price and other contract
 27 term disclosures for a sale of services and products, and
 28 the use of plain English disclosures in clear boldface type
 29 in a preneed trust agreement and in an endowment care
 30 agreement.

31 7730.5. (a) Notwithstanding any other provision of
 32 law, a funeral director or cemetery authority shall present
 33 to the survivor of the deceased or the responsible party
 34 who is handling the funeral, burial, or cremation
 35 arrangements, a copy of a preneed agreement that has
 36 been signed and paid in full, or in part, by or on behalf of
 37 the deceased and which is in the possession of the funeral
 38 director or cemetery authority.



1 (b) The copy may be presented in person, by certified
2 mail, or by facsimile transmission, as agreed upon by the
3 survivor of the deceased or the responsible party.

4 (c) A licensee subject to this section who knowingly
5 fails to present the preneed agreement to the survivor of
6 the deceased or the responsible party shall be liable for a
7 civil fine equal to three times the cost of the preneed
8 agreement, or one thousand dollars (\$1,000), whichever
9 amount is greater.

10 7731. (a) A funeral director shall provide to a person,
11 upon beginning discussion of prices or of funeral goods
12 and services that are available for purchase, a written or
13 printed list containing, but not necessarily limited to, the
14 price for professional services offered. The services may
15 include the funeral director's services, the preparation of
16 the body, the use of facilities, and the use of automotive
17 equipment.

18 (b) All services included in the quoted price or prices
19 shall be enumerated. The funeral director shall also
20 provide a written statement or list that gives the price
21 range for all caskets offered for sale. The funeral director
22 shall also provide a written statement or list that, at a
23 minimum, specifically identifies a particular casket or
24 caskets by price and by thickness of metal, or type of
25 wood, or other construction, interior and color, in
26 addition to other casket identification requirements
27 under Part 453 of Title 16 of the Code of Federal
28 Regulations and any subsequent version of this
29 regulation, when a request for specific information on a
30 casket or caskets is made in person by an individual.

31 (c) Prices of caskets and other identifying features
32 such as thickness of metal, or type of wood, or other
33 construction, interior and color, in addition to other
34 casket identification requirements required to be given
35 over the telephone by Part 453 of Title 16 of the Code of
36 Federal Regulations and any subsequent version of this
37 regulation, shall be provided over the telephone, if
38 requested.

39 7731.5. (a) The funeral establishment shall indicate
40 the price in a conspicuous manner on each casket.



1 Individual price tags on caskets shall include the thickness
2 of metal, or type of wood, or other construction, as
3 applicable, in addition to interior and color information.

4 (b) A casket shall be priced individually, irrespective
5 of the type of service purchased.

6 (c) If a funeral director advertises a funeral service for
7 a stated amount, he or she shall display in a reasonably
8 convenient location in the showroom and have available
9 for sale, the casket that is used for determining that price.

10 7732. (a) A funeral director may not enter into a
11 contract for furnishing services or property in connection
12 with the burial or other disposal of a dead human body
13 until he or she has first submitted to the potential
14 purchaser of the services or property a written or printed
15 memorandum containing the following:

16 (1) The total charge for the funeral director's services
17 and the use of his or her facilities, including the
18 preparation of the body and other professional services,
19 and the charge for the use of automotive and other
20 necessary equipment.

21 (2) An itemization of charges for the casket, an outside
22 receptacle, and clothing, as selected.

23 (3) An itemization of fees or charges and the total
24 amount of cash advances made by the funeral director for
25 transportation, flowers, cemetery or crematory charges,
26 newspaper notices, clergy honoraria, transcripts,
27 telegrams, long distance telephone calls, music, and other
28 advances as authorized by the purchaser.

29 (4) An itemization of fees or charges not included
30 above.

31 (5) The total of the amount specified in paragraphs
32 (1), (2), (3), and (4).

33 (b) If the charge for any of the above items is not
34 known at the time the contract is entered into, the funeral
35 director shall advise the purchaser of the charge within
36 a reasonable period after the information becomes
37 available.

38 (c) All prices charged for items covered under
39 Sections 7731 and 7731.5 shall be the same as those given
40 under those sections.



1 7732.5. A funeral director may not charge the survivor
2 of the deceased who is handling the funeral or burial
3 arrangements or the responsible party any of the
4 following:

5 (a) A handling fee for a casket supplied by the survivor
6 or responsible party.

7 (b) An additional fee for handling or embalming a
8 body when death was due to a contagious or infectious
9 disease.

10 (c) A fee for filing a certificate of death or for
11 providing copies thereof in excess of fees set by statute for
12 filing and providing certified copies of these certificates.

13 7733.5. A crematory licensee under this article may
14 not conduct a cremation unless the licensee has a written
15 contract with the person or persons entitled to custody of
16 the remains clearly stating the location, manner, and time
17 of disposition to be made of the remains, agreeing to pay
18 the regular fees of the licensee for cremation, disposition,
19 and other services rendered, and any other contractual
20 provisions as may be required by the board.

21 7734. A crematory licensee who prohibits relatives or
22 the responsible party from viewing the cremation process
23 shall disclose this fact in writing to the person or persons
24 entitled to custody of the remains prior to the signing of
25 any contract.

26 SEC. 3. Chapter 19 (commencing with Section 9600)
27 of Division 3 of the Business and Professions Code is
28 repealed.

29 SEC. 4. No reimbursement is required by this act
30 pursuant to Section 6 of Article XIII B of the California
31 Constitution because the only costs that may be incurred
32 by a local agency or school district will be incurred
33 because this act creates a new crime or infraction,
34 eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section
36 17556 of the Government Code, or changes the definition
37 of a crime within the meaning of Section 6 of Article
38 XIII B of the California Constitution.

39 Notwithstanding Section 17580 of the Government
40 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

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