FUNERAL SERVICES LICENSING ACT

EFFECTIVE November 1, 2026

The official copy of the Funeral Services Licensing Act is on file with the Oklahoma Secretary of State and may be found in Title 59, Sections 395.1 through 396.33 of the Oklahoma Statutes. Other publications such as this one are unofficial. The agency has made every attempt to verify the accuracy of the text of this document. However, in the case of any disparity of text, the official copy will prevail.

§59-395.1. Short title.

Sections 395.1 through 396.28 of this title, and Sections 24 through 26 of this act shall be known and may be cited as the "Funeral Services Licensing Act".

§59-396. Oklahoma Funeral Board - Appointment - Term - Qualifications.

There is hereby re-created, to continue until July 1, 2029, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma Funeral Board. Any reference in the statutes to the Oklahoma State Board of Embalmers and Funeral Directors shall be a reference to the Oklahoma Funeral Board. The Board shall consist of seven (7) persons, who shall be appointed by the Governor. The term of membership of each member of the Board shall be five (5) years from the expiration of the term of the member succeeded. Any member having served as a member of the Board shall be eligible for reappointment. Provided that, a member of the Board shall serve no more than two consecutive terms and any unexpired term that a member is appointed to shall not apply to this limit. The Governor shall appoint the necessary members to the Board upon vacancies and immediately prior to the expiration of the various terms. Upon request of the Governor, appointments of a licensed embalmer and funeral director member of the Board shall be made from a list of five qualified persons submitted by the Oklahoma Funeral Directors Association. An appointment to fill a vacancy shall be for the unexpired term. A member of the Board shall serve until a successor is appointed and qualified. No person shall be a member of the Board, unless, at the time of appointment, the person is of good moral character and a resident of this state. Five of the members shall have been actively engaged in the practice of embalming and funeral directing in this state

for not less than seven (7) consecutive years immediately prior to the appointment of the person, shall have an active license as provided by the Funeral Services Licensing Act, shall keep the license effective, and shall remain a resident of this state during the entire time the person serves on the Board. Two of the members of the Board shall be chosen from the general public, one of whom shall, if possible, be a person licensed and actively engaged in the health care field, and shall not be licensed funeral directors or embalmers or have any interest, directly or indirectly, in any funeral establishment or any business dealing in funeral services, supplies or equipment. These two members shall be appointed to serve for five-year terms.

§59-396.1. Oath of office.
Members of said Board, before entering upon their duties, shall take and subscribe to the oath of office provided for state officers, and the same shall be filed in the office of the Secretary of State.

§59-396.1A. Removal of Board members.
The Governor shall remove from membership of the Oklahoma Funeral Board, at any time, any member of the Board for continued neglect of duty required by the Funeral Services Licensing Act, conduct involving moral turpitude or any violation of the provisions of Section 396.12c of this title.

§59-396.1B. Expenses of Board members - Executive director - Other personnel.
All of the members of the Oklahoma Funeral Board shall be reimbursed for travel expenses incident to attendance upon the business of the Board as provided in the State Travel Reimbursement Act. The Board is hereby authorized to employ an executive director at an annual salary to be set by the Board, payable monthly, and to rent and equip an office therefor in some city in the state to be selected by the Board. The Board shall not employ any of its members for a period of three (3) years following their expiration of term of office. The executive director shall keep such books, records, and perform such other lawful duties as are required by or placed upon the executive director by the Board, and shall be entitled to receive traveling expenses while in the performance of the duties as directed and prescribed by the Board. The executive director shall not accept any employment from any funeral home or wholesale

house dealing in funeral supplies or equipment while acting as the executive director. The Board shall have the right and authority to employ necessary personnel to carry out the provisions of the Funeral Services Licensing Act. The expenses of the Board shall at no time exceed the monies available to the Fund of the Oklahoma Funeral Board.

§59-396.1C. Executive director of Board - Powers and duties – Collection and disposition of funds.

The executive director of the Board shall keep and preserve all records of the Board, issue all necessary notices to the embalmers, funeral directors and apprentices of the state, and perform such other duties as may be imposed upon the executive director by the Board. The executive director is hereby authorized and empowered to collect, in the name and on behalf of the Board, the fees prescribed in the Funeral Services Licensing Act, and all fees so collected shall at the end of each month be deposited by the executive director with the State Treasurer. The State Treasurer shall place ten percent (10%) of the money so received in the general fund of the state, and the balance in a special fund to be known as the "Fund of the Oklahoma Funeral Board". Payment from the fund shall be upon warrants drawn by the State Treasurer against claims submitted by the Board to the Director of the Office of Management and Enterprise Services for approval and payment. All monies so received by the fund may be used by the Board in carrying out the provisions of the Funeral Services Licensing Act.

§59-396.2. Definitions.

As used in the Funeral Services Licensing Act:

1. “Embalmer” means a person who disinfects or preserves dead human remains, entire or in part, by the use of chemical substances, fluids or gases in the remains, or by the introduction of same into the remains by vascular or hypodermic injection, or by direct application into organs or cavities;
2. “Funeral director” means a person who:
    a. is engaged in or conducts or represents themselves as being engaged in preparing for the burial or disposal and directing and supervising the burial or disposal of dead human remains,
    b. is engaged in or conducts or represents themselves as being engaged in maintaining a funeral establishment for the preparation and

the disposition, or for the care of dead human remains,

c. uses, in connection with the name of the person or funeral establishment, the words "funeral director" or "undertaker" or "mortician" or any other title implying that the person is engaged as a funeral director,

d. sells funeral service merchandise to the public, or

e. is responsible for the legal and ethical operation of a crematory;

3. "Funeral establishment" means a place of business used in the care and preparation for burial, commercial embalming, or transportation of dead human remains, or any place where any person or persons shall hold forth and be engaged in the profession of undertaking or funeral directing;

4. "Apprentice" means a person who is engaged in learning the practice of embalming or the practice of funeral directing, as the case may be, under the instruction and personal supervision of a duly licensed embalmer or a duly licensed funeral director of and in the State of Oklahoma, pursuant to the provisions of the Funeral Services Licensing Act, and who is duly registered as such with said Board;

5. "Board" means the Oklahoma Funeral Board;

6. "Directing a funeral" or "funeral directing" means directing funeral services from the time of the first call until final disposition or release to a common carrier or release to next of kin of the deceased or the designee of the next of kin;

7. "First call" means the beginning of the relationship and duty of the funeral director to take charge of dead human remains and have such remains prepared by embalming, cremation, or otherwise, for burial or disposition, provided all laws pertaining to public health in this state are complied with. First call does not include calls made by ambulance, when the person dispatching the ambulance does not know whether or not dead human remains are to be picked up;

8. "Personal supervision" means the physical presence of a licensed funeral director or embalmer at the specified time and place of the providing of acts of funeral service;

9. "Commercial embalming establishment" means a fixed place of business consisting of an equipped preparation room, and other rooms as necessary, for the specified purpose of performing preparation and shipping services of

dead human remains to funeral establishments inside and outside this state;

10. "Funeral service merchandise or funeral services" means those products and services normally provided by funeral establishments and required to be listed on the General Price List of the Federal Trade Commission, 15 U.S.C., Section 57a(a), including, but not limited to, the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches or outer enclosures;

11. "Outer enclosure" means a grave liner, grave box, or grave vault;

12. "Funeral director in charge" means an individual licensed as both a funeral director designated by a funeral service establishment, commercial embalming establishment, or crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board;

13. "Authorizing agent" means a person legally entitled to order the cremation or final disposition of particular human remains pursuant to Section 1151 or 1158 of Title 21 of the Oklahoma Statutes; and

14. "Cremation" means the technical process, using heat and flame, or heat and pressure, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation, or through alkaline hydrolysis. Cremation shall include, but not be limited to, the processing and pulverization of the bone fragments.

15. "Crematory" means a structure containing a furnace or alkaline hydrolysis vessel used or intended to be used for the cremation of human remains. The term includes a facility that cremates human remains through alkaline hydrolysis.

§59-396.2a. Board - Additional powers and duties.

In addition to any other powers and duties imposed by law, the Oklahoma Funeral Board shall have the power and duty to:

1. Prescribe and promulgate rules necessary to effectuate the provisions of the Funeral Services Licensing Act, and to make orders as it may deem necessary or expedient in the performance of its duties;

2. Prepare, conduct and grade examinations, written or oral, of persons who apply for the issuance of licenses to them;

3. Determine the satisfactory passing score on such examinations and issue licenses to persons who pass the examinations or are otherwise entitled to licensure;

4. Determine eligibility for licenses and certificates of apprenticeship;

5. Issue licenses for funeral directors, embalmers, funeral establishments, commercial embalming establishments, and crematories;

6. Issue certificates of apprenticeship;

7. Upon good cause shown, as hereinafter provided, deny the issuance of a license or certificate of apprenticeship or suspend, revoke or refuse to renew licenses or certificates of apprenticeship, and upon proper showing, to reinstate them;

8. Review, affirm, reverse, vacate or modify its order with respect to any such denial, suspension, revocation or refusal to renew;

9. Establish and levy administrative penalties against any person or entity who violates any of the provisions of the Funeral Services Licensing Act or any rule promulgated pursuant thereto;

10. Obtain an office, secure facilities and employ, direct, discharge and define the duties and set the salaries of office personnel as deemed necessary by the Board;

11. Initiate disciplinary, prosecution and injunctive proceedings against any person or entity who violates any of the provisions of the Funeral Services Licensing Act or any rule promulgated pursuant thereto;

12. Investigate alleged violations of the Funeral Services Licensing Act or of the rules, orders or final orders of the Board;

13. Promulgate rules of conduct governing the practice of licensed funeral directors, embalmers, funeral establishments, and commercial embalming establishments and sale of funeral service merchandise;

14. Keep accurate and complete records of its proceedings and certify the same as may be appropriate;

15. Request prosecution by the district attorney or the Attorney General of this state of any person or any violation of the Funeral Services Licensing Act;

16. When it deems appropriate, confer with the Attorney General of this state or the assistants of the Attorney General in connection with all legal matters and questions;

17. Take such other action as may be reasonably necessary or appropriate to effectuate the Funeral Services Licensing Act;

18. Promulgate rules, issue licenses, and regulate crematories pursuant to the Funeral Services Licensing Act;

19. Issue temporary licenses to a funeral establishment when its facilities are destroyed or damaged in order that the funeral establishment can continue to operate. During the effective period of the temporary license, the Board may waive certain licensing requirements if the funeral establishment is making a good faith effort to rebuild or restore its operations in order to meet all licensing requirements; and

20. Promulgate rules for continuing education for licensees pursuant to Section 8 of this act.

21. Approve course providers and course curriculum for licensure of a funeral director.

§59-396.3. Qualifications and examination of funeral directors and embalmers - Approved schools.

A. The Oklahoma Funeral Board shall determine the qualifications necessary to enable any person to practice as a funeral director or embalmer, and prescribe the requirements for a funeral establishment or commercial embalming establishment. The Board shall examine all applicants for licenses to practice as a funeral director or embalmer. The Board shall issue the proper licenses to applicants who successfully pass such examination and qualify pursuant to any additional requirements the Board may prescribe.

B. 1. Except as provided in subsection C of this section, the minimum requirements for a license to practice funeral directing or embalming, or both, are as follows: The minimum requirements for a license to practice funeral directing or embalming, or both, are as follows:

An applicant for a license to practice funeral directing or embalming shall be at least eighteen (18) years of age, a legal resident of this state, a citizen or permanent resident of the United States. In addition, an applicant shall be a graduate of a program of funeral service/mortuary science accredited by the American Board of Funeral Service Education, and have served one (1) year as a registered apprentice. The applicant may serve as a registered apprentice prior to enrollment in an approved school of mortuary science, or subsequent to graduation from the school and pass any of the following relevant exams necessary for licensure: the International Conference

of Funeral Service Examining Board National Board Science Examination, the International Conference of Funeral Service Examining Board National Board Arts Examination, the Oklahoma Funeral Directors Examination, or the Oklahoma Embalmers Examination with a 75 or higher on each exam.

2. Curriculum of study for an embalmer or funeral director is a program of mortuary science which shall be that prescribed by the American Board of Funeral Service Education.

C. 1. If a person chooses not to meet the qualifications in subsection B of this section for a funeral director, the person may alternatively qualify for a license to practice funeral directing, but not embalming, upon meeting the eligibility requirements of this subsection as follows: An applicant for a license to practice funeral directing shall be at least eighteen (18) years of age, a legal resident of this state, a citizen or permanent resident of the United States. An applicant is required to complete a funeral director course of study approved by the Oklahoma Funeral Board and that is administered by program of funeral service/mortuary science accredited by the American Board of Funeral Service Education (ABFSE). The funeral director course of Study shall include at least thirty (30) semester hours or Equivalent closely following the ABFSE curriculum standard, limited to only: Business Management, Cremation, Social Sciences/Humanities, Legal, Ethical, Regulatory, plus essential elements of embalming, restorative art, general concerns when dealing with human remains, a practicum experience and preparation for the required board exams. In addition to the funeral director course of study the applicant is required to complete a twelve-month minimum term as a registered apprentice with employment at a licensed establishment and must have assisted with twenty-five arrangement conferences and assisted with twenty-five separate funeral or memorial services under the supervision of a licensed funeral director in this state. The applicant may serve as a registered apprentice prior to enrollment in an approved school of mortuary science, concurrently while in mortuary school, or subsequent to completion of the funeral director course of study.

2. Curriculum of study for a funeral director license shall be in a program of mortuary science which shall be that prescribed by the Oklahoma Funeral Board. An applicant must pay all fees as provided in Section 396.4 of this title and pass an exam provided by the International Conference of Funeral Service Examining Board or the

Oklahoma Funeral Directors Exam with a seventy-five (75) or higher as well as pass a law exam provided by the Oklahoma Funeral Board, with a seventy-five (75) or higher. A license to practice as a funeral director issued pursuant to this subsection shall be restricted to funeral director.

3. If a person chooses not to meet the qualifications in subsection B of this section for an embalmer, the person may alternatively qualify for a license to practice embalming, upon meeting the eligibility requirements of this subsection as follows: An applicant for a license to practice embalming shall be a legal resident of this state, a citizen or permanent resident of the United States, and of good moral character. An applicant is required to complete an embalmer course of study approved by the Oklahoma Funeral Board and that is administered by a program of funeral service/mortuary science accredited by the American Board of Funeral Service Education (ABFSE). The embalmer course of study shall include at least thirty (30) semester hours or equivalent closely following the ABFSE curriculum standard, limited to only: Biology, Chemistry, Microbiology, Human Anatomy, Pathology, Embalming, Embalming Chemistry, and Restorative Art, plus essential elements of grief, communication, and preparation for the required board exams. The applicant must also complete a twelve-month minimum term as a registered apprentice with full-time employment at a licensed establishment or licensed commercial embalming establishment and must have assisted with (25) embalmings under the supervision of a licensed embalmer in this state. The applicant may serve as a registered apprentice prior to enrollment in an approved school of mortuary science, concurrently while in mortuary school, or subsequent to completion of the embalmer course of study.

4. Curriculum of study for an embalmer license shall be in a program of funeral service/mortuary science which shall be that prescribed by the Oklahoma Funeral Board. An applicant must pay all fees as provided in Section 396.4 of this title and pass the embalmer examination provided by the International Conference of Funeral Service Examining Board or the Oklahoma Embalmers Exam with a score of seventy-five (75) or higher as well as pass a law exam provided by the Oklahoma Funeral Board, with a seventy-five (75) or higher. A license to practice as an embalmer issued pursuant to this subsection shall be restricted to embalmer, and the licensee shall not be eligible to practice as the funeral director in charge as defined in Section 396.2 of this title.

D. The Board shall issue the appropriate license to any qualified applicant whose application has been approved by the Board, and who has paid the fees required by Section 396.4 of this title, has passed the required examinations with a seventy five (75) or higher score and has demonstrated to the Board proficiency as an embalmer or funeral director.

E. The Board shall maintain for public inspection a list of all accredited schools of embalming and mortuary science.

F. Upon April 23, 2021, and for one (1) year thereafter, the Board may issue a temporary funeral director or embalmer license in the event a statewide state of emergency is declared by the Governor and during such time as the state of emergency is in effect.

§59-396.3a. Persons and businesses required to be licensed.

The following persons, professions and businesses shall be required to be licensed pursuant to the Funeral Services Licensing Act:

1. Any person engaged or who may engage in:
    a. the practice or profession of funeral directing or embalming,
    b. maintaining the business of a funeral establishment or commercial embalming establishment,
    c. the sale of any funeral service merchandise, or
    d. providing funeral services; and
2. Any funeral establishment or commercial embalming establishment.

§59-396.3b Funeral Director Assistant

A. As used in this section, "assistant funeral director" means a person who assists a funeral director duly licensed in this state in one or more of the principal functions of funeral directing and is actively engaged in such work. An assistant funeral director shall be an employee of the funeral director in charge under whom the employee is registered, and shall be a person to whom the funeral director in charge delegates the responsibility of conducting funeral services, making funeral arrangements, and making interments.

B. The Oklahoma Funeral Board may license assistant funeral directors to each Oklahoma-licensed funeral

director in charge. The funeral director in charge shall have only one assistant funeral director. Licensure as an assistant funeral director shall be separate and distinct from registration as an apprentice funeral director or embalmer. The Board may issue an assistant funeral director license upon successful completion of the Oklahoma State Law Examination for Funeral Directors, the manner and form of which shall be determined by the Board, and upon payment of the application fee which shall include the license fee for the current year or portion thereof. Such application and registration and renewal fee shall be in the amount fixed by the Board in accordance with the provisions of Section 396.4 of Title 59 of the Oklahoma Statutes. Before issuing a license to an applicant for an assistant funeral director's license, the Board shall require satisfactory proof that the applicant is capable and trustworthy to act as such and that the applicant is a person of good moral character, has a good standing in the community, and is qualified to engage in the business. In determining the moral character of any such applicant, the Board shall take into consideration any felony conviction of such person; provided, however, any such conviction shall not automatically operate as a bar to licensure. Each person applying for an assistant funeral director's license shall make application and be recommended in writing on forms provided by the Board. The application shall show that the applicant is at least eighteen (18) years of age and shall have at least sixty (60) semester hours of study earned, measured in quarter or clock hours, from a regionally accredited college or university before such license can be issued to the applicant. Upon issuing a license to an assistant funeral director, the Board shall cause the licensee to be registered under the supervision of the Oklahoma-licensed funeral director by whom such licensee is employed and under whom such licensee is registered. The funeral director under whom the assistant funeral director has been registered shall immediately notify the Board when the licensee has left the employment of the director. Upon reemployment of the licensee by any other funeral director in charge, such licensee shall be reinstated by the Board. The work of an assistant funeral director shall at all times be under the supervision and control of the Oklahoma-licensed funeral director under whom the licensee is registered. Licenses of assistant funeral directors may be suspended or revoked, or the Board may refuse to issue or renew a license, for any of the reasons and in the manner stated in this section for funeral directors' licenses.

C. The expiration date of each license shall be December 31. Subject to the provisions of this section, each license shall be renewable on an annual basis upon the filing of a renewal application prior to the expiration date of the license and upon payment of the renewal fee.

D. The assistant funeral director shall complete continuing education in accordance with the provisions of Section 396.5b of Title 59 of the Oklahoma Statutes

§59-396.4. Fees.

A. 1. The Oklahoma Funeral Board shall set fees pursuant to rule for all licenses, registrations, examinations and renewals required by the Funeral Services Licensing Act.

2. Until the Oklahoma Funeral Board sets fees pursuant to rule, the following shall be the fees charged for the licenses, registrations, and examinations required by the Funeral Services Licensing Act:

Funeral Director License or Renewal	$75.00
Assistant Funeral Director License or Renewal	$150.00
Embalmer License or Renewal	$75.00
Registration for Funeral Director/Embalmer Apprentice	$150.00
Extension of Funeral Director /Embalmer Apprentice	$150.00
Embalmer Examination	$100.00
Funeral Director Examination	$100.00
State Law Examination	$100.00
Funeral Establishment License or Renewal	$250.00
Commercial Embalming Establishment License or Renewal	$250.00
Reciprocal License for Funeral Director or Embalmer	$150.00

Change of Funeral Director in Charge	$150.00
Crematory License or Renewal	$250.00

B. The Oklahoma Funeral Board shall assess Three Dollars ($3.00) for each disposition performed by the licensed funeral establishment or commercial embalming establishment. The disposition fee shall be payable upon renewal of the license as provided in subsection E of this section and shall be calculated from November 1 of the preceding calendar year to October 31 of the current calendar year for each licensee. For purposes of this subsection, "disposition" means each time the licensed establishment files an original death certificate pursuant to Section 1-317 of Title 63 of the Oklahoma Statutes.

C. Fees for funeral director, embalmer, and state law examinations shall be paid prior to the scheduled examination. An examination fee shall not be refundable.

D. The Oklahoma Funeral Board is authorized to determine and fix special administrative service fees. Each such fee shall not be in excess of Two Hundred Dollars ($200.00).

E. If any renewal fee required by this section is not paid on or before December 31 of each year, the amount of the fee shall be doubled and if the fee is not paid on or before April 30 of the subsequent year, the licensee shall be in default and the license shall terminate automatically.

F. All examinations of the Oklahoma Funeral Board shall be exempt from the Oklahoma Open Records Act in order to maintain the integrity of the examination process. Copies of completed examinations shall only be released upon receipt of a court order from a court of competent jurisdiction.

§59-396.5. Expiration of license - Renewal.

All licenses issued by the Board shall expire on the 31st day of December of each year. The Board shall issue a renewal for such license without further examination upon the payment of a renewal fee as required by Section 396.4 of this title. A funeral director or embalmer who fails to

apply for a renewal license for a period of three (3) years or more, shall be reinstated by taking a written and oral examination, as required by the Board, and by paying a fee and the current years' dues as required by Section 396.4 of this title.

§59-396.5a. Inactive military service list - Not subject to renewal fees - Reinstatement on discharge.

All funeral directors and/or embalmers regularly licensed in this state, who are or become members of the armed forces of the United States, shall upon proper notification to the executive director of the Oklahoma Funeral Board be placed upon the inactive military service list to be kept by the executive director and shall not be subject to the payment of renewal fees upon their licenses as funeral directors and/or embalmers until they have been discharged from the military service of the United States and desire to practice their profession in this state. Upon the discharge of licensees from military service, they shall be reinstated as active funeral directors and/or embalmers upon the payment of the then current year's license fee.

§59-396.5b. Continuing education courses.

A. Beginning July 1, 2006, as a condition of renewal or reactivation of a license, each licensee shall submit to the Oklahoma Funeral Board evidence of the completion of clock hours of continuing education courses approved by the Board within the twelve (12) months immediately preceding the term for which the license is issued. The number of hours, or its equivalent, required for each licensed term shall be determined by the Board and promulgated by rule. Each licensee shall be required to complete and include as part of the continuing education provision a certain number of required subjects as provided by rule.

B. The continuing education courses required by this section shall be satisfied by courses approved by the Board or the Academy of Professional Funeral Service Practice.

C. The Board shall maintain a listing of courses approved by the Board.

D. The Board shall not issue an active renewal license or reactivate a license unless the continuing education requirement set forth in this section is satisfied within the prescribed time period.

E. The provisions of this section shall not apply:

1. During the period a licensee is on inactive status;

2. To a nonresident licensee licensed in this state if the licensee is not engaged in funeral service or embalming practice in Oklahoma; and

3. To classes of licensees exempted by rules of the Board.

§59-396.6. License required - Employment of licensed embalmer – Display of license or certificate.

A. No person shall operate a funeral establishment, commercial embalming establishment, or crematory, engage in the sale of any funeral service merchandise to the public, provide funeral services, carry on the business or profession of embalming or funeral directing or perform any of the functions, duties, or powers prescribed for funeral directors or embalmers pursuant to the provisions of the Funeral Services Licensing Act unless the person has obtained the license specified by rules promulgated pursuant to the Funeral Services Licensing Act and has otherwise complied with the provisions of the Funeral Services Licensing Act. The license shall be nontransferable and nonnegotiable.

B. A license shall not be issued to any person for the operation of a funeral or embalming establishment which does not employ an embalmer licensed pursuant to the provisions of Section 396.3 of this title. An individual who supervises a funeral or embalming establishment shall be licensed pursuant to the provisions of Section 396.3 of this title.

C. The holder of any license or certificate issued pursuant to the Funeral Services Licensing Act, or any rules promulgated pursuant thereto, shall have the license or certificate displayed conspicuously in the place of business of the holder.

§59-396.8. Reciprocity.

A. The Oklahoma Funeral Board shall have the power to issue reciprocal licenses to applicants licensed in other states which have equal or like educational requirements as required by this state or the Board.

B. A license as an embalmer or funeral director shall be issued without examination to an out-of-state resident intending to become a resident of this state, who submits to the Board satisfactory evidence that said applicant has met all the requirements of the Funeral Services Licensing Act and pays the fees required by Section 396.4 of this title.

C. The Board may issue an appropriate license without further apprenticeship to a resident of a state which does not have the same educational requirements necessary for reciprocity with this state, if said applicant:

1. Has a current license to practice as an embalmer or funeral director in the state of residence of the person;

2. Has been an active embalmer or funeral director practicing in the state of residence of the person for at least five (5) years;

3. Has never been convicted of a felony crime that substantially relates to the occupation of an embalmer or funeral director and poses a reasonable threat to public safety, and has never been convicted of a misdemeanor related to funeral service;

4. Has never had said license revoked or suspended;

5. Is not currently facing disciplinary action;

6. Intends to practice in this state;

7. Has filed such documents as are required by the Board;

8. Has paid the fees as required by Section 396.4 of this title;

9. Is a citizen or permanent resident of the United States;

10. Is a graduate of an accredited program of mortuary science;

11. Has passed the National Board Examination or State Board Examination administered by the International Conference of Funeral Service Examining Board; and

12. Has passed the Oklahoma State Law Examination.

D. As used in this section:

1. "Substantially relates" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation; and

2. "Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against and has bearing on the fitness or ability to serve the public or work with others in the occupation.

§59-396.10. Application - Rules of Board - Publication of changes in rules.

Any person desiring to engage in the profession or business of embalming or funeral directing or both, as defined herein, shall make application, be required to show

all preliminary requisites, comply with the rules of the Board, and take all examinations as shall be deemed necessary by the Board in its rules. The Board shall publish in its rules the subject to be covered in the examination and the standards to be attained thereon. Changes in the rules shall be published pursuant to the Administrative Procedures Act.

§59-396.11. Apprenticeship - Application - Certificate - Rules.

A. The term for an apprenticeship in embalming and the term for an apprenticeship in funeral directing may be served concurrently. Applications for an apprenticeship in funeral directing or embalming shall be made to the Board in writing on a form and in a manner prescribed by the Board. The Board shall issue a certificate of apprenticeship to any person applying for said certificate who submits to the Board satisfactory evidence that said person is seventeen (17) years of age or older, of good moral character, and a graduate of an accredited high school or has earned a G.E.D. credential. The application shall be accompanied by a registration fee as required by Section 396.4 of this title.

B. The Board shall prescribe and enforce such rules as necessary to qualify apprentice applicants as embalmers or funeral directors. A license to practice embalming or funeral directing shall not be issued until said applicant has complied with the rules of the Board, and said applicant has embalmed at least twenty-five dead human bodies for burial or shipment during apprenticeship.

C. The certificate of apprenticeship shall expire one (1) year from the date of issuance but may be renewed by the Board for four additional one-year periods.

§59-396.12. Funeral establishment required to be licensed – Display of license - Inspection of premises - Sanitary rules – Commercial embalming establishments.

A. Any place where a person shall hold forth by word or act that the person is engaged in the profession of undertaking or funeral directing shall be deemed as a funeral establishment and shall be licensed as such pursuant to the provisions of the Funeral Services Licensing Act.

B. A funeral establishment shall not do business in a location that is not licensed as a funeral establishment, shall not advertise a service that is available from an unlicensed location, and shall advertise itself by the name

that the establishment is licensed as pursuant to the Funeral Services Licensing Act.

C. Every funeral establishment, commercial embalming establishment, and crematory shall be operated by a funeral director in charge. Each establishment license shall be conspicuously displayed at the location.

D. The Oklahoma Funeral Board shall have the power to inspect the premises in which funeral directing is conducted or where embalming or cremation is practiced or where an applicant proposed to practice, and the Board is hereby empowered to prescribe and endorse rules for reasonable sanitation of such establishments, including necessary drainage, ventilation, and necessary and suitable instruments for the business or profession of embalming and funeral directing.

E. Any place where a person shall hold forth by word or act that such person is engaged in preparing and shipping of dead human remains to funeral establishments inside and outside this state shall be deemed a commercial embalming establishment and shall be licensed as such pursuant to the provisions of the Funeral Services Licensing Act.

§59-396.12a. Embalming to be performed by licensed embalmer or apprentice - Holding out as funeral director, embalmer, etc. without license prohibited.

A. No person shall place any chemical substance, fluid or gas on or in dead human remains who is not a licensed embalmer. This prohibition shall not apply to a registered apprentice, working under the supervision of a licensed embalmer and shall not apply to medical students or their teachers in state-maintained medical schools in this state.

B. No person shall act or represent themselves as a funeral director, embalmer, apprentice, provide funeral services or merchandise or operate a funeral establishment or a commercial embalming establishment without a current license or registration issued pursuant to the Funeral Services Licensing Act.

§59-396.12b. Conducting funeral, persons authorized - Embalming, persons authorized - Transfer or removal of remains.

A. Each funeral conducted within this state shall be under the personal supervision of a duly licensed funeral director who holds a valid license from the Oklahoma Funeral Board. A registered apprentice may assist in conducting funerals. To conduct a funeral shall require

the personal supervision of a licensed funeral director from the time of the first call until interment is completed. A funeral director conducting a funeral in this state shall ensure that the casket or other container holding the deceased human remains shall not incur any damage other than that which is normally incurred in the burial or final disposition of human remains.

B. The embalming of dead human remains shall require the presence and the direct supervision of a duly licensed embalmer, however, a licensed registered apprentice embalmer may perform the embalming of a dead human provided said registered apprentice embalmer is under the direct supervision of a duly licensed embalmer.

C. Nothing in this section regarding the conduct of funerals or personal supervision of a licensed director, a registered apprentice embalmer, or licensed embalmer, shall apply to persons related to the deceased by blood or marriage. Further, nothing in this section shall apply or in any manner interfere with the duties of any state officer or any employee of a local state institution.

D. Dead human remains shall be picked up on first call only under the direction and supervision of a licensed funeral director or embalmer. Dead human remains may be picked up or transferred without the personal supervision of a funeral director or embalmer; provided however, any inadvertent contact with family members or other persons shall be restricted to identifying the employer to the person, arranging an appointment with the employer for any person who indicates a desire to make funeral arrangements for the deceased and making any disclosure to the person that is required by any federal or state regulation. A funeral director or embalmer who directs the removal or transfer of dead human remains without providing personal supervision shall be held strictly accountable for compliance with the requirements of the Funeral Services Licensing Act.

§59-396.12c. Refusal to issue or renew, revocation or suspension of license - Grounds.

A. After notice and hearing pursuant to Article II of the Administrative Procedures Act, the Oklahoma Funeral Board may refuse to issue or renew, or may revoke or suspend, any license or registration for any one or combination of the following:

1. Conviction of a felony crime that substantially relates to the occupation of a funeral director and poses a reasonable threat to public safety;

2. Conviction of a misdemeanor involving funeral services;

3. Gross malpractice or gross incompetency, which shall be determined by the Board;

4. False or misleading advertising as a funeral director or embalmer;

5. Violation of any of the provisions of the Funeral Services Licensing Act or any violation of Sections 201 through 231 of Title 8 of the Oklahoma Statutes;

6. Fraud or misrepresentation in obtaining a license;

7. Using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the burial or other disposition of dead human remains, unless the disclosure is made to the purchaser;

8. Violation of any rules of the Board in administering the purposes of the Funeral Services Licensing Act;

9. Use of intoxicating liquor sufficient to produce drunkenness in public, or habitual addiction to the use of habit-forming drugs or either;

10. Solicitation of business, either personally or by an agent, from a dying individual or the relatives of a dead or individual with a terminal condition, as defined by the Oklahoma Advance Directive Act other than through general advertising;

11. Refusing to properly release a dead human body to the custody of the person entitled to custody;

12. Violating applicable state laws relating to the failure to file a death certificate, cremation permit, or prearrangement or prefinancing of a funeral;

13. Failing to obtain other necessary permits as required by law in a timely manner;

14. Failing to comply with the Funeral Rules of the Federal Trade Commission, 15 U.S.C., Section 57a(a);

15. Failing to comply with any applicable provisions of the Funeral Services Licensing Act at the time of issuance or renewal;

16. Improper issuance or renewal of a license or registration;

17. Violating the provisions of subsection B of Section 396.12 of this title regarding advertisement of services at locations not licensed by the Board;

18. The abuse of a corpse whereby a person knowingly and willfully signs a certificate as having embalmed, cremated, or prepared a dead human body for disposition when, in fact, the services were not performed as indicated;

19. Simultaneous cremating of more than one human dead body without express written approval of the authorizing agent; or

20. Cremating human remains without the permit required by Section 1-329.1 of Title 63 of the Oklahoma Statutes.

21. Intentional interference with an investigation by the Board or failure to allow access to funeral records during an investigation; or

22. Failure to properly discharge financial obligations as established by rule of the Board.

§59-396.12d. Violations - Penalties - Liabilities.

Any person who violates any of the provisions of the Funeral Services Licensing Act or rule or regulation promulgated or order issued pursuant thereto, after notice and hearing pursuant to Article II of the Administrative Procedures Act, shall be subject to any of the following penalties and liabilities authorized by the Funeral Services Licensing Act:

1. License or certificate of apprenticeship revocation, denial, suspension or nonrenewal;

2. Administrative fines;

3. Injunctive proceedings; and

4. Other disciplinary action.

Further, such person shall be subject to criminal penalties pursuant to the provisions of Section 396.24 of Title 59 of the Oklahoma Statutes.

§59-396.12e. Administrative penalty and costs - Surrender of license in lieu of penalty.

A. Any person or entity who has been determined by the Oklahoma Funeral Board to have violated any provision of the Funeral Services Licensing Act or any rule or order issued pursuant thereto may be liable for an administrative penalty. The maximum administrative penalty shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of violations.

B. The Board shall be authorized, at its discretion, to take action as the nature of the violation requires. The Board shall have the authority to impose on the licensee, or certificate holder, as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation. The costs may include but are not limited to staff time, salary and travel expenses, witness fees and

attorney fees, and shall be considered part of the order of the Board.

C. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act. The Board shall make a report of any action to any entity deemed appropriate for transmittal of the public record but shall in no cause be held liable for the content of the reported action or be made a party to any civil liability action taken as a result of the discipline imposed by the Board. All monies collected from the administrative penalties shall be deposited with the State Treasurer and by the State Treasurer placed in the "Fund of the Oklahoma Funeral Board", created pursuant to Section 17 of this act.

D. Any license or certificate of apprenticeship holder may elect to surrender the license or certificate of apprenticeship of the person in lieu of said penalty but shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.

§59-396.12f. Complaints - Investigation - Hearing - Emergencies - Orders - Appeal - Service of instruments.

A. Complaints against any person for alleged violations of the Funeral Services Licensing Act or of any of the rules issued pursuant thereto shall be in writing, signed by the complainant and filed with the executive director of the Oklahoma Funeral Board. In addition to the general public, any member or employee of the Board, or the executive director of the Oklahoma Funeral Board, may sign a complaint for any violation of which the executive director has knowledge. All complaints shall name the person complained of, and shall state the time and place of the alleged violations and the facts of which the complainant has knowledge. Upon receiving a complaint, the Board shall examine the complaint, and determine whether there is a reasonable cause to believe the charges to be true.

B. If upon inspection, investigation or complaint, or whenever the Board determines that there are reasonable grounds to believe that a violation of the Funeral Services Licensing Act or of any rule promulgated pursuant thereto has occurred, the Board shall give written notice to the alleged violator specifying the cause of complaint. The notice shall require that the matters complained of be corrected immediately or that the alleged violator appear before the Board at a time and place specified in the notice and answer the charges. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection E of this section.

C. The Board shall afford the alleged violator an opportunity for a fair hearing in accordance with the provisions of subsection F of this section not less than fifteen (15) days after receipt of the notice provided for in subsection B of this section. On the basis of the evidence produced at the hearing, the Board shall make findings of fact and conclusions of law and enter an order thereon. The Board shall give written notice of the order to the alleged violator and to any other persons who appeared at the hearing and made written request for notice of the order. If the hearing is held before a hearing officer as provided for in subsection F of this section, the hearing officer shall transmit the record of the hearing together with recommendations for findings of fact and conclusions of law to the Board which shall thereupon enter its order. The Board may enter its order on the basis of such record or, before issuing its order, require additional hearings or further evidence to be presented. The order of the Board shall become final and binding on all parties unless appealed to the district court pursuant to Article II of the Administrative Procedures Act, within thirty (30) days after notice has been sent to the parties.

D. Whenever the Board finds that as a result of a violation of the Funeral Services Licensing Act or any rule promulgated thereto an emergency exists requiring immediate action to protect the public health or welfare, the Board may without notice or hearing issue an order stating the existence of an emergency and requiring that action be taken as it deems necessary to meet the emergency. The order shall be effective immediately. Any person to whom an order is directed shall comply with the order immediately but on application to the Board shall be afforded a hearing within ten (10) days of receipt of the notice. On the basis of a hearing, the Board shall continue the order in effect, revoke it or modify it. Any

person aggrieved by an order continued after the hearing provided for in this subsection may appeal to the district court of the county in which the person resides, or in which the business of the person is located, within thirty (30) days of the Board's action. The appeal when docketed shall have priority over all cases pending on the docket, except criminal cases.

E. Except as otherwise expressly provided by law, any notice, order or other instrument issued by or pursuant to authority of the Board may be served on any person affected thereby personally, by publication or by mailing a copy of the notice, order or other instrument by registered mail directed to the person affected at his last-known post office address as shown by the files or records of the Board. Proof of service shall be made as in the case of service of a summons or by publication in a civil action or may be made by the affidavit of the person who did the mailing. Proof of service shall be filed in the office of the Board.

Every certificate or affidavit of service made and filed as provided for in this subsection shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

F. The hearings authorized by this section may be conducted by the Board. The Board may designate hearing officers who shall have the power and authority to conduct hearings in the name of the Board at any time and place. The hearings shall be conducted in conformity with and records made thereof pursuant to Article II of the Administrative Procedures Act.

G. All records on complaints filed against any licensee pursuant to the Funeral Services Licensing Act shall be exempt from the Oklahoma Open Records Act unless the Board gave written notice of the complaint pursuant to subsection B of this section.

§59-396.16. Records of Board - Contents - Public inspection.

The Board shall keep a record of its proceedings, and its acts relating to the issuance, refusal, renewal, suspensions and revocation of licenses. This record shall contain the name, place of business, and residence of each registered embalmer and funeral director and registered apprentice, and the date and number of his certificate of registration. This record shall be open to public inspection.

§59-396.17. Board - Officers - Rules.

The Oklahoma Funeral Board shall have the power to select from its own members a president and a vice-president and to make, adopt, promulgate and enforce reasonable rules for the:

1. Transaction of its business;
2. Sanitary management of funeral homes;
3. Work of embalmers and apprentices;
4. Management of the Board's affairs;
5. Betterment and promotion of the educational standards of the profession of embalming and the standards of service and practice to be followed in the profession of embalming and funeral directing in this state; and
6. Carrying into effect of any of the provisions of the Funeral Services Licensing Act, as the Board may deem expedient, just and reasonable and consistent with the laws of this state.

§59-396.19. Act inapplicable when.

Nothing in this act shall apply to or in any manner interfere with the duties of any officer of local or state institutions, nor shall this act apply to any person simply furnishing a burial receptacle for the dead and burying the dead who were related to such person by blood or marriage, but not embalming or directing funerals.

§59-396.20. Suspicion of crime - Embalming body without permission unlawful.

It shall be unlawful to embalm a dead human body when any fact within the knowledge or brought to the attention of the embalmer is sufficient to arouse suspicion of crime in connection with the cause of death of the deceased, until permission of the Chief Medical Examiner has been first obtained.

§59-396.22. Meetings of Board.

Meetings of the Board shall be held at least twice a year at such places as may be designated by the Board. Three members of the Board shall constitute a quorum.

§59-396.23. Schools - Privileges.

Schools for teaching embalming shall have extended to them the same privileges as to the use of bodies for dissection while teaching as those granted in this state to medical colleges; provided, that such bodies must be obtained through the State Board of Health.

§59-396.24. Violations - Penalties.

Any person, firm, association or corporation who violates any of the provisions of the Funeral Services Licensing Act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be punished by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

§59-396.26. Partial invalidity.

If any section of this act shall be declared unconstitutional for any reason, the remainder of this act shall not be affected thereby.

§59-396.27. Risk of transmission of communicable disease - Precautions.

In handling and preparing dead human remains for final disposition, any person who comes in direct contact with an unembalmed dead human body or who enters a room where dead human bodies are being embalmed shall exercise all reasonable precautions to minimize the risk of transmitting any communicable disease from the body in accordance with federal regulations regarding the control of infectious diseases and occupational and workplace health and safety.

§59-396.28. Funeral directors and embalmers from other states – Temporary permit.

In case of a catastrophe as declared by the executive director of the Board, funeral directors and embalmers from other states may be allowed to practice in this state. A temporary permit may be issued to those persons, and the permit shall allow the persons to practice for a length of time as determined by the Board.

§59-396.29. Cremation – Intermingling – Liability for final disposition or cremation – Identification system – Disposition of unclaimed remains – Military veteran.

A. The person charged by law with the duty of burying the body of a deceased person may discharge such duty by causing the body to be cremated as authorized and provided for in the following sections of this article, but the body of a deceased person shall not be disposed of by cremation, or other similar means, within the State of Oklahoma, except in a crematory duly licensed as provided for herein, and then only under a special permit for cremation issued in accordance with the provisions hereof.

B. Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process shall be removed from the crematory and placed in a separate container so that the residue may not be commingled with the cremated remains of other persons. Cremated remains of a dead human shall not be divided or separated without the prior written consent of the authorizing agent.

C. A funeral director or funeral establishment that has received express written authorization for final disposition or cremation from the authorizing agent shall not be liable if the final disposition or cremation is performed in accordance with the provisions of the Funeral Services Licensing Act. The funeral director or funeral establishment shall not be liable for following in a reasonable fashion the instructions of any persons who falsely represent themselves as the proper authorizing agents.

D. Absent the receipt of a court order or other suitable confirmation of resolution, a funeral director or funeral establishment shall not be liable for refusing to accept human remains for final disposition or cremation if the funeral director or other agent of the funeral establishment:

1. Is aware of any dispute concerning the final disposition or cremation of the human remains; or

2. Has a reasonable basis for questioning any of the representations made by the authorizing agent.

E. Each funeral establishment which offers or performs cremations shall maintain an identification system that ensures the ability of the funeral establishment to identify the human remains in its possession throughout all phases of the cremation process. Upon completion of the cremation process, the crematory operator shall attest to the identity of the cremated remains and the date, time, and place the cremation process occurred on a form prescribed by rule of the Oklahoma Funeral Board. The form shall accompany the human remains in all phases of transportation, cremation, and return of the cremated remains.

F. The authorizing agent is responsible for the disposition of the cremated remains. If, after sixty (60) calendar days from the date of cremation, the authorizing agent or the representative of the agent has not specified the ultimate disposition or claimed the cremated remains, the funeral establishment in possession of the cremated remains may dispose of the cremated remains in a dignified

and humane manner in accordance with any state, county, or municipal laws or provisions regarding the disposition of cremated remains, except as provided in subsection G of this section. A record of this disposition shall be made and kept by the entity making the disposition. Upon the disposition of unclaimed cremated remains in accordance with this subsection, the funeral establishment and entity which disposed the cremated remains shall be discharged from any legal obligation or liability concerning the disposition of the cremated remains.

G. If the authorizing agent determines that the unclaimed cremated remains are those of a military veteran, the funeral establishment may transfer the remains to a charitable organization approved by the Military Department of the State of Oklahoma for the purpose of providing a dignified and honorable funeral for the veteran at a veterans cemetery. The charitable organization shall be listed as an exempt organization under Section 501(c) of the Internal Revenue Code, 26 U.S.C., Section 501(c). Upon the transfer of the veteran's remains to the charitable organization, the funeral establishment shall be discharged from any legal obligation or liability concerning the disposition of the cremated remains.

§59-396.30. Licenses – Requirements – Records and reports – Compliance with state and federal health and environmental laws – Inspections.

A. No person shall dispose of the body of any deceased person by cremation or other similar means, within this state, without first having obtained from the Oklahoma Funeral Board an annual license to operate a crematory.

B. Application for an annual license shall be made to the executive director of the Board upon forms prescribed and furnished by the executive director, shall give the location of the crematory, and any other information as the executive director shall require, and shall be accompanied by the crematory license fee pursuant to Section 396.4 of this title. A crematory shall not be licensed separately from a funeral or commercial embalming establishment but shall be licensed in conjunction with and operated by a funeral service or commercial embalming establishment. Annual licenses shall expire on December 31 each year, shall specify the name or names of the owners of the crematory and the location thereof, the funeral director in charge, and shall not be transferable either as to the ownership of the crematory, the funeral director in charge or as to the location thereof. The first annual license

issued for any crematory at any location shall not be issued by the executive director until the executive director has been satisfied:

1. That the crematory is, or will be, so constructed as to be capable of reducing the body of a deceased person to a residue which shall not weigh more than five percent (5%) of the weight of the body immediately after death; and

2. That the crematory has at least one operable crematory for cremation.

The requirement of paragraph 1 of this subsection may, but need not, be waived by the executive director for any subsequent annual license issued for the same crematory.

C. All funeral establishments performing cremations shall have a licensed funeral director in charge.

D. Each funeral establishment performing cremation services shall keep records as required by the Board to assure compliance with all laws relating to the disposition of dead human remains and shall file annually with the Board a report in the form prescribed by the Board describing the operations of the licensee, including the number of cremations performed, the disposition thereof, and any other information that the Board may require by rule.

E. A funeral establishment performing cremation services shall be subject to all local, state, and federal health and environmental requirements and shall obtain all necessary licenses and permits from the Oklahoma Funeral Board, and the appropriate federal and state health and environmental authorities.

F. Crematories licensed by the Board on the effective date of this act shall be exempt from the provisions of subsections C, D and E of this section.

G. All crematories shall be subject to inspection, at all reasonable times, by the Board or its duly authorized agents or employees.

§59-396.31. Rules for licensing, inspection, and regulation of crematories.

The Oklahoma State Board of Embalmers and Funeral Directors is authorized, pursuant to the Administrative Procedures Act, to adopt and promulgate rules necessary for the licensing, inspection, and regulation of crematories.

§59-396.32. Residue of cremated body.

The residue resulting from the cremation of the body of a deceased person may be transported in this state in any manner, without any permit therefor, and may be disposed of in any manner desired or directed by the person or persons charged by law with the duty of burying the body.

§59-396.33. Cremation without license and permit a felony.

Disposing of the body of a deceased person by cremation or other similar means, within the State of Oklahoma, except in a crematory duly licensed as provided for in Section 25 of this act and under a special permit for cremation issued in accordance with the provisions of Section 1-329.1 of Title 63 of the Oklahoma Statutes, is hereby declared to be a felony.