

Chapter 18.39 RCW
EMBALMERS—FUNERAL DIRECTORS

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RCW 18.39.010 Definitions. The definitions in this section and in chapter 68.04 RCW apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the funeral and cemetery board created pursuant to RCW 18.39.173.

(2) "Director" means the director of licensing.

(3) "Embalmer" means a person engaged in the profession or business of disinfecting and preserving human remains for transportation or final disposition.

(4) "Funeral director" means a person engaged in the profession or business of providing for the care, shelter, transportation, and arrangements for the disposition of human remains that may include arranging and directing funeral, memorial, or other services.

(5) "Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, that provides for any aspect of the care, shelter, transportation, embalming, preparation, and arrangements for the disposition of human remains and includes all areas of such entity and all equipment, instruments, and supplies used in the care, shelter, transportation, preparation, and embalming of human remains.

(6) "Funeral merchandise or services" means those services normally performed and merchandise normally provided by funeral establishments, including 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 vaults.

(7) "Licensee" means any person or entity holding a license, registration, endorsement, or permit under this chapter issued by the director.

(8) "Prearrangement funeral service contract" means any contract under which, for a specified consideration, a funeral establishment

promises, upon the death of the person named or implied in the contract, to furnish funeral merchandise or services.

(9) "Public depository" means a public depository defined by RCW 39.58.010 or a state or federally chartered credit union.

(10) "Two-year college course" means the completion of sixty semester hours or ninety quarter hours of college credit, including the satisfactory completion of certain college courses, as set forth in this chapter.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female. [2019 c 432 § 36. Prior: 2009 c 102 § 1; 2005 c 365 § 1; 2000 c 171 § 10; 1989 c 390 § 1; 1982 c 66 § 1; 1981 c 43 § 1; 1979 c 158 § 39; 1977 ex.s. c 93 § 1; 1965 ex.s. c 107 § 1; 1937 c 108 § 1; RRS § 8313.]

Effective date—2019 c 432: See note following RCW 68.05.175.

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Effective dates—1982 c 66: See note following RCW 18.39.240.

Number and gender: RCW 1.12.050.

RCW 18.39.020 License required. It is unlawful for any person to act or hold himself or herself out as a funeral director or embalmer or discharge any of the duties of a funeral director or embalmer as defined in this chapter unless the person has a valid license under this chapter. It is unlawful for any person to establish, maintain, or operate a funeral establishment without a valid establishment license. [2005 c 365 § 2; 1987 c 150 § 30; 1981 c 43 § 2; 1937 c 108 § 2; RRS § 8314-1. Prior: 1909 c 215 § 1. Formerly RCW 18.39.020 and 18.39.110.]

Severability—1987 c 150: See RCW 18.122.901.

RCW 18.39.035 Applicant for license as funeral director or embalmer—Eligibility. (1) An applicant for a license as a funeral director shall be at least eighteen years of age and must have obtained an associate of arts degree in mortuary science or completed a course of not less than two years in an accredited college, and a one-year course of training under a licensed funeral director in this state. The applicant must also pass an examination in the funeral arts and an examination in the laws of this state pertaining to the handling, care, transportation, and disposition of human remains and the contents of this chapter.

(2) An applicant for a license as an embalmer must be at least eighteen years of age and have obtained an associate of arts degree in mortuary science or completed a course of instruction in an accredited mortuary science college program and other college courses that total sixty semester hours or ninety quarter hours, completed a two-year course of training under a licensed embalmer in this state, and have

passed an examination in the funeral sciences and an examination in the laws of this state pertaining to the handling, care, transportation, and disposition of human remains, and the contents of this chapter. [2005 c 365 § 3; 1996 c 217 § 1; 1981 c 43 § 3.]

RCW 18.39.045 College course requirements. (1) The two-year college course required for funeral directors under this chapter shall consist of sixty semester or ninety quarter hours of instruction at a school, college, or university accredited by the Northwest Association of Schools and Colleges or other accrediting association approved by the board, with a minimum 2.0 grade point, or a grade of C or better, in each subject required by subsection (2) of this section.

(2) Credits shall include one course in psychology, one in mathematics, two courses in English composition, two courses in social science, and three courses selected from the following subjects: Behavioral sciences, public speaking, counseling, business administration and management, computer science, and first aid.

(3) This section does not apply to any person registered and in good standing as an apprentice funeral director or embalmer on or before January 1, 1982. [2005 c 365 § 4; 1996 c 217 § 2; 1982 c 66 § 20; 1981 c 43 § 4.]

Effective dates—1982 c 66: See note following RCW 18.39.240.

RCW 18.39.050 Application—Renewal—Fees. Every application for an initial license or a license renewal under this chapter shall be made in writing on a form prescribed by the director with such information as the director requires. The director shall set license fees in accordance with RCW 43.24.086. [1985 c 7 § 37; 1982 c 66 § 21; 1981 c 43 § 5; 1975 1st ex.s. c 30 § 42; 1971 ex.s. c 266 § 8; 1937 c 108 § 6; RRS § 8318-1. Formerly RCW 18.39.050, 18.39.060, and 18.39.140.]

Effective dates—1982 c 66: See note following RCW 18.39.240.

RCW 18.39.070 Examinations. (1) License examinations shall be held by the director at least once each year at a time and place to be designated by the director. Application to take an examination shall be filed with the director at least fifteen days prior to the examination date. The department shall give each applicant written notice of the time and place of the next examination. The applicant shall be deemed to have passed an examination if the applicant attains a grade of not less than seventy-five percent in each examination.

(2) An applicant for a license may take his or her written examination after completing the educational requirements and before completing the course of training required under RCW 18.39.035. [2019 c 442 § 6; 2005 c 365 § 5; 1996 c 217 § 3; 1981 c 43 § 6; 1965 ex.s. c 107 § 4; 1937 c 108 § 5; RRS § 8317. Prior: 1909 c 215 §§ 8, 11.]

RCW 18.39.100 License—Form—Restrictions. Every license issued shall specify the name of the person to whom it is issued and shall be displayed in his or her place of business in an area accessible to the

public. No license shall be assigned, and not more than one person shall carry on the profession or business of funeral directing or embalming under one license. [2005 c 365 § 6; 1996 c 217 § 4; 1937 c 108 § 7; RRS § 8319. Prior: 1909 c 215 § 13.]

RCW 18.39.120 Interns—Registration—Renewal—Notice of termination—Fees. Every person engaged in the business of funeral directing or embalming, who employs an intern to assist in the conduct of the business, shall register the name of each intern with the director at the beginning of the internship, and shall also forward notice of the termination of the internship. The registration shall be renewed annually and shall expire on the anniversary of the intern's birthdate. Fees determined under RCW 43.24.086 shall be paid for the initial registration of the intern, and for each annual renewal. [2005 c 365 § 7; 1985 c 7 § 38; 1981 c 43 § 7; 1975 1st ex.s. c 30 § 43; 1937 c 108 § 10; RRS § 8322.]

RCW 18.39.125 Academic interns. (1) An "academic intern" includes any student enrolled in an accredited college funeral service education program who is serving his or her three-month internship at a participating Washington state funeral establishment as required for graduation from the funeral service education program.

(2) Academic interns shall serve their internship in accordance with the guidelines established by the funeral service education program.

(3) Academic interns shall register with the director at the beginning of the academic internship on an application form prescribed by the board. The academic internship may not exceed a period of three months. No fee is required for registration as an academic intern. [2005 c 365 § 8.]

RCW 18.39.130 Licenses—Applicants from other states—Examination. The board may recognize licenses issued to funeral directors or embalmers from other states and extend reciprocity to an applicant if the applicant furnishes satisfactory evidence that the applicant holds a valid license issued by another licensing authority recognized by the board as having qualifications for licensure that are substantially equivalent to those required by this chapter on the date of original licensure or licensure with the other licensing authority. Five years active experience as a licensee may be accepted to make up a deficit in the comparable education requirements.

The board may issue a funeral director's or embalmer's license upon:

- (1) Presentation of the license verification;
- (2) Payment of a fee determined under RCW 43.24.086;
- (3) Successful completion of the examination of the laws of this state pertaining to the handling, care, transportation, and disposition of human remains and the contents of this chapter. [2005 c 365 § 9; 1996 c 217 § 5. Prior: 1986 c 259 § 60; 1985 c 7 § 39; 1982 c 66 § 22; 1981 c 43 § 8; 1975 1st ex.s. c 30 § 44; 1937 c 108 § 15; RRS § 8325; prior: 1909 c 215 § 16.]

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—1982 c 66: See note following RCW 18.39.240.

RCW 18.39.145 Funeral establishment license—Issuance—

Requirements—Transferability—Expiration. The board shall issue a funeral establishment license to any person, partnership, association, corporation, or other organization to operate a funeral establishment, at a specific location only, which has met the following requirements:

(1) The applicant has designated the name under which the funeral establishment will operate and has designated the location for which the establishment license is to be issued;

(2) The applicant is licensed in this state as a funeral director or employs one licensed funeral director who will be in service at the designated location;

(3) The applicant has filed an application with the director as required by this chapter and paid the required filing fee pursuant to RCW 43.24.086;

(4) As a condition of applying for a new funeral establishment license, the person or entity desiring to acquire such ownership or control shall be bound by all then existing prearrangement funeral service contracts.

(5) All duties requiring a license will be performed by licensed individuals or registered interns.

The board may deny an application for a funeral establishment license, or issue a conditional license, if disciplinary action has previously been taken against the applicant or the applicant's designated funeral director or embalmer. No funeral establishment license shall be transferable. An applicant may make application for more than one funeral establishment license so long as all of the requirements are met for each license. All funeral establishment licenses shall expire on January 31st, or as otherwise determined by the director. [2005 c 365 § 10. Prior: 1986 c 259 § 61; 1985 c 7 § 40; 1977 ex.s. c 93 § 3.]

Severability—1986 c 259: See note following RCW 18.130.010.

RCW 18.39.150 License lapse—Reinstatement—Fee—Reexamination.

Any licensed funeral director or embalmer whose license has lapsed shall reapply for a license and pay a fee as determined under RCW 43.24.086 before the license may be issued. Applications under this section shall be made within one year after the expiration of the previous license. If the application is not made within one year, the applicant shall be required to take an examination and pay the license fee, which may include penalty fees. [2005 c 365 § 11. Prior: 1986 c 259 § 63; 1985 c 7 § 41; 1981 c 43 § 10; 1975 1st ex.s. c 30 § 45; 1937 c 108 § 8; RRS § 8320.]

Severability—1986 c 259: See note following RCW 18.130.010.

RCW 18.39.170 Inspector of funeral establishments, crematories, alkaline hydrolysis, natural organic reduction facilities, directors, and embalmers—Appointment—Eligibility—Term—Powers and duties. The director must appoint an agent whose title is "inspector of funeral establishments, crematories, alkaline hydrolysis, and natural organic

reduction facilities, funeral directors, and embalmers of the state of Washington." A person is not eligible for such appointment unless he or she has been a licensed funeral director and embalmer in the state of Washington, with a minimum experience of not less than five consecutive years.

(1) The inspector must:

(a) Serve at the pleasure of the director; and

(b) At all times be under the supervision of the director.

(2) The inspector is authorized to:

(a) Enter the office, premises, establishment, or place of business, where funeral directing, embalming, alkaline hydrolysis, or natural organic reduction is carried on for the purpose of inspecting the premises;

(b) Inspect the licenses and registrations of funeral directors, embalmers, funeral director interns, and embalmer interns;

(c) Serve and execute any papers or process issued by the director under authority of this chapter; and

(d) Perform any other duty or duties prescribed or ordered by the director. [2019 c 432 § 37; 2005 c 365 § 12; 1937 c 108 § 16; RRS § 8325-1.]

Effective date—2019 c 432: See note following RCW 68.05.175.

RCW 18.39.173 Funeral and cemetery board—Membership—Appointment—Qualifications—Terms—Vacancies—Officers—Quorum. (1) A funeral and cemetery board is created. The initial appointments to the board

include all members from the existing funeral directors and embalmers board and existing cemetery board with their year of expiration of term remaining the same. Subsequent to the initial appointments the board will consist of seven members to be appointed by the governor in accordance with this section.

(2) Three members of the board must be persons who have had experience in the active administrative management of a cemetery authority or as a member of the board of directors of a cemetery authority for a period of five years preceding appointment. Three members of the board must each be licensed in this state as funeral directors and embalmers and must have been continuously engaged in the practice as funeral directors and embalmers for a period of five years preceding appointment. One member must represent the general public and may not have worked in or received any substantive financial benefit from the funeral or cemetery industry. Board members must be a resident of the state of Washington.

(3) All members of the board shall be appointed to serve for a term of four years, to expire on July 1st of the year of termination of their term, and until their successors have been appointed. In case of a vacancy occurring on the board, the governor shall appoint a qualified member for the remainder of the unexpired term of the vacant office. Any member of the board who fails to properly discharge the duties of a member may be removed by the governor.

(4) The board shall meet once annually to conduct its business and to elect a chair, vice chair, and other officers as the board determines, and at other times when called by the director, the chair, or a majority of the members. A majority of the members of the board shall at all times constitute a quorum. A quorum of the board to consider any charges brought under this chapter must include two of

the funeral director and embalmer members of the board. A quorum of the board to consider any charges brought under Title 68 RCW must include two of the members who have had experience in the active administrative management of a cemetery authority. If board members cannot serve due to a conflict of interest, a quorum constituting a majority of the members must preside over the hearing.

(5) Each member of the board must be compensated in accordance with RCW 43.03.240 and must receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2009 c 102 § 2; 2005 c 365 § 13; 1977 ex.s. c 93 § 8.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

RCW 18.39.175 Board—Duties and responsibilities—Rules. The board shall have the following duties and responsibilities under this chapter:

(1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;

(2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";

(3) To make findings and recommendations to the director on any and all matters relating to the enforcement of this chapter;

(4) To adopt and enforce reasonable rules;

(5) To examine or audit or to direct the examination and audit of prearrangement funeral service trust fund records for compliance with this chapter and rules adopted by the board; and

(6) To adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal. [2009 c 102 § 3; 2005 c 365 § 14; 1996 c 217 § 6; 1994 c 17 § 1. Prior: 1986 c 259 § 64; 1985 c 402 § 6; 1984 c 287 § 34; 1984 c 279 § 53; 1981 c 43 § 11; 1977 ex.s. c 93 § 9.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Savings—1986 c 259 §§ 64, 73: "The repeal of RCW 18.39.179 and the amendment of RCW 18.39.175 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before June 11, 1986." [1986 c 259 § 74.]

Severability—1986 c 259: See note following RCW 18.130.010.

Legislative finding—1985 c 402: See note following RCW 68.50.185.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Severability—1984 c 279: See RCW 18.130.901.

RCW 18.39.181 Powers and duties of director. The director shall have the following powers and duties:

- (1) To issue all licenses provided for under this chapter;
- (2) To renew licenses under this chapter;
- (3) To collect all fees prescribed and required under this chapter;
- (4) To immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order;
- (5) To keep records of all official acts, proceedings, and transactions of the department of licensing; and
- (6) To employ the necessary staff to carry out the duties of this chapter. [2005 c 365 § 15; 1997 c 58 § 819; 1996 c 217 § 7; 1986 c 259 § 65; 1981 c 43 § 13; 1977 ex.s. c 93 § 5.]

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Severability—1986 c 259: See note following RCW 18.130.010.

RCW 18.39.195 Pricing information to be given—Billing "cash advanced" items. (1) Every licensed funeral director, his or her agent, or his or her employee shall give, or cause to be given, to the person making funeral arrangements or arranging for shipment, transportation, or other disposition of a deceased person:

(a) If requested by voice, data, text, electronic, or other similar transmission, accurate information regarding the retail prices of funeral merchandise and services offered for sale by that funeral director; and

(b) At the time such arrangements are completed or prior to the time of rendering the service, a written, itemized statement showing to the extent then known the price of merchandise and service that such person making such arrangements has selected, the price of supplemental items of service and merchandise, if any, and the estimated amount of each item for which the funeral service firm will advance money as an accommodation to the person making such funeral arrangements.

(2) No such funeral director, his or her agent, or his or her employee, shall bill or cause to be billed any item that is referred to as a "cash advanced" item unless the net amount paid for such item by the funeral director is the same amount as is billed to such funeral director. [2005 c 365 § 16; 1979 ex.s. c 62 § 1.]

RCW 18.39.215 Embalmers—Authorization to embalm—Information required—Immediate care of body—Waiver—Penalty. (1)(a) No licensed embalmer shall embalm human remains without first having obtained authorization from the individual or individuals that have the right to control the disposition under RCW 68.50.160.

(b) The funeral director or embalmer shall inform the family member or representative of the deceased that embalming is not required by state law, except that embalming is required under certain conditions as determined by rule by the state board of health.

(2) (a) Any licensee authorized to dispose of human remains shall refrigerate or embalm the human remains upon receipt of the human remains. However, subsection (1) of this section and RCW 68.50.108 shall be complied with before human remains are embalmed. Upon written authorization of the proper state or local authority, the provisions of this subsection may be waived for a specified period of time.

(b) Violation of this subsection is a gross misdemeanor. [2005 c 365 § 17; 2003 c 53 § 127; 1987 c 331 § 76; 1985 c 402 § 5; 1981 c 43 § 15.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—1987 c 331: See RCW 68.05.900.

Legislative finding—1985 c 402: See note following RCW 68.50.185.

RCW 18.39.217 License or endorsement required for cremation, alkaline hydrolysis, and natural organic reduction—Penalty. (1) A license or endorsement issued under this chapter or chapter 68.05 RCW is required in order to operate a crematory, alkaline hydrolysis, or natural organic reduction facility or conduct a cremation, alkaline hydrolysis, or natural organic reduction.

(2) Conducting a final disposition without a license or endorsement is a misdemeanor. Each such action is a separate violation. [2019 c 432 § 38; 2009 c 102 § 4; 2005 c 365 § 18; 2003 c 53 § 128; 1985 c 402 § 7.]

Effective date—2019 c 432: See note following RCW 68.05.175.

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Legislative finding—1985 c 402: See note following RCW 68.50.185.

RCW 18.39.220 Unlawful business practices—Penalty. (1) Every licensee who pays, or causes to be paid, directly or indirectly, money, or other valuable consideration, for the securing of business is guilty of a gross misdemeanor.

(2) Every person who sells, or offers for sale, any share, certificate, or interest in the business of any funeral director or embalmer, or in any corporation, firm, or association owning or operating a funeral establishment, which promises to give to the purchaser a right to the services of the funeral director, embalmer,

or corporation, firm, or association at a charge or cost less than that offered or given to the public, is guilty of a gross misdemeanor. [2005 c 365 § 19; 2003 c 53 § 129; 1981 c 43 § 16; 1937 c 108 § 13; RRS § 8323-2.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Violations—Penalty—Unfair practice under chapter 19.86 RCW: RCW 18.39.350.

RCW 18.39.231 Prohibited advice and transactions—Exceptions—Rules—Penalty. (1) A licensee shall not, in conjunction with any professional services performed for compensation under this chapter, provide financial or investment advice to any person other than a family member, represent any person in a real estate transaction, or act as an agent under a power of attorney for any person. However, this section shall not be deemed to prohibit a funeral establishment from entering into prearrangement funeral service contracts in accordance with this chapter or to prohibit a funeral director from providing advice about government or insurance benefits.

(2) A violation of this section is a gross misdemeanor and is grounds for disciplinary action.

(3) The board shall adopt rules as the board deems necessary to prevent unethical financial dealings between licensees and their clients. [2005 c 365 § 20; 2003 c 53 § 130; 1986 c 259 § 66; 1982 c 66 § 15.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—1982 c 66: See note following RCW 18.39.240.

RCW 18.39.240 Prearrangement funeral service contracts—License required. Only a funeral establishment licensed pursuant to this chapter may enter into prearrangement funeral service contracts. [1989 c 390 § 2; 1982 c 66 § 2.]

Effective dates—1982 c 66: "This act shall take effect on September 1, 1982, with the exception of sections 20, 21, and 22 of this act, which are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 26, 1982]." [1982 c 66 § 24.]

Transfer of records, files, and pending business—1982 c 66: "(1) All records, files, reports, papers, or other written material in the possession of the insurance commissioner pertaining to the regulation of prepaid funeral expenses shall be delivered to the director of licensing on the effective date of this act.

(2) All business or matters concerning prepaid funeral expenses pending before the insurance commissioner shall be transferred to the

director of licensing and assumed by the director on the effective date of this act." [1982 c 66 § 17.]

Savings—1982 c 66: "The transfer of duties under sections 2 through 14 of this act shall not affect the validity of any rule, action, decision promulgated or held prior to the effective date of this act." [1982 c 66 § 18.]

RCW 18.39.250 Prearrangement contracts—Trusts—Refunds. (1) Any funeral establishment selling funeral merchandise or services by prearrangement funeral service contract and accepting moneys therefore must establish and maintain one or more prearrangement funeral service trusts under Washington state law with two or more designated trustees, for the benefit of the beneficiary of the prearrangement funeral service contract. Funeral establishments may join with one or more other Washington state licensed funeral establishments in a "master trust" provided that each member of the "master trust" complies individually with the requirements of this chapter.

(2) Up to ten percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment unless otherwise provided in this chapter. If the prearrangement funeral service contract is canceled within thirty calendar days of its signing, then the purchaser must receive a full refund of all moneys paid under the contract.

(3) At least ninety percent of the cash purchase price of each prearrangement funeral service contract, paid in advance, excluding sales tax, shall be placed in the trust established or utilized by the funeral establishment. Deposits to the prearrangement funeral service trust must be made not later than the twentieth day of the month following receipt of each payment made on the last ninety percent of each prearrangement funeral service contract, excluding sales tax.

(4) All prearrangement funeral service trust moneys must be deposited in an insured account in a commercial bank, trust company, mutual savings bank, savings and loan association, or credit union, whether state or federally chartered. The account or investments shall be designated as the prearrangement funeral service trust of the funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contracts. The prearrangement funeral service trust shall not be considered as, or used as, an asset of the funeral establishment. All prearrangement funeral service trust moneys must be invested in accordance with the provisions of RCW 11.100.020 subject to the following restrictions:

(a) No officer or director of the funeral establishment, trustee of the prearrangement trust funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, may borrow any of such funds for himself or herself, directly or indirectly;

(b) No funds may be loaned to the funeral establishment, its agents, or employees, or to any corporation, partnership, or other business entity in which the funeral establishment has any ownership interest; and

(c) No funds may be invested with persons or business entities operating in a business field directly related to funeral homes.

(5) After deduction of reasonable fees for the administration of the trust, taxes paid or withheld, or other expenses of the trust, all interest, dividends, or growth earned by a trust become a part of the trust. Adequate records must be maintained to allocate the share of principal and interest to each contract. Fees deducted for the administration of the trust may not exceed one percent per year of the amount in trust. In no instance may the administrative charges deducted from the prearrangement funeral service trust reduce, diminish, or in any other way lessen the value of the trust so that the services or merchandise provided for under the contract are reduced, diminished, or in any other way lessened.

(6) Except as otherwise provided in this chapter, the trustees of a prearrangement funeral service trust must permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(7) Subsequent to the thirty calendar day cancellation period provided for in this chapter, any purchaser or beneficiary who has a revocable prearrangement funeral service contract has the right to demand a refund of the amount in trust.

(8) Prearrangement funeral service contracts which have or should have an account in a prearrangement funeral service trust may be terminated by the board if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, has its prearrangement funeral service certificate of registration revoked, or for any other reason is unable to fulfill the obligations under the contract. In such event, or upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the funeral establishment must refund to the purchaser or beneficiary all moneys deposited in the trust and allocated to the contract unless otherwise ordered by a court of competent jurisdiction. The purchaser or beneficiary may, in lieu of a refund, elect to transfer the prearrangement funeral service contract and all amounts in trust to another funeral establishment licensed under this chapter which will agree, by endorsement to the contract, to be bound by the contract and to provide the funeral merchandise or services. Election of this option does not relieve the defaulting funeral establishment of its obligation to the purchaser or beneficiary for any amounts required to be, but not placed, in trust.

(9) Prior to the sale or transfer of ownership or control of any funeral establishment which has contracted for prearrangement funeral service contracts, any person, corporation, or other legal entity desiring to acquire such ownership or control must apply to the director in accordance with RCW 18.39.145. Persons and business entities selling or relinquishing, and persons and business entities purchasing or acquiring ownership or control of such funeral establishments must each verify and attest to a report showing the status of the prearrangement funeral service trust or trusts on the date of the sale. This report must be on a form prescribed by the board and shall be considered part of the application for a funeral

establishment license. In the event of failure to comply with this subsection, the funeral establishment is deemed to have gone out of business and the provisions of subsection (8) of this section apply.

(10) Prearrangement funeral service trust moneys may not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust moneys as collateral or other security.

(11)(a) If, at the time of the signing of the prearrangement funeral service contract, the beneficiary of the trust is a recipient of public assistance as defined in RCW 74.04.005, or reasonably anticipates being so defined, the contract may provide that the trust will be irrevocable. If after the contract is entered into, the beneficiary becomes eligible or seeks to become eligible for public assistance under Title 74 RCW, the contract may provide for an election by the beneficiary, or by the purchaser on behalf of the beneficiary, to make the trust irrevocable thereafter in order to become or remain eligible for such assistance.

(b) The department of social and health services must notify the trustee of any prearrangement service trust that the department has a claim on the estate of a beneficiary for long-term care services. Such notice must be renewed at least every three years. The trustees upon becoming aware of the death of a beneficiary must give notice to the department of social and health services, office of financial recovery, who shall file any claim there may be within thirty days of the notice.

(12) Every prearrangement funeral service contract financed through a prearrangement funeral service trust must contain language which:

(a) Informs the purchaser of the prearrangement funeral service trust and the amount to be deposited in the trust;

(b) Indicates if the contract is revocable or not in accordance with subsection (11) of this section;

(c) Specifies that a full refund of all moneys paid on the contract will be made if the contract is canceled within thirty calendar days of its signing;

(d) Specifies that, in the case of cancellation by a purchaser or beneficiary eligible to cancel under the contract or under this chapter, up to ten percent of the contract amount may be retained by the seller to cover the necessary expenses of selling and setting up the contract;

(e) Identifies the trust to be used and contains information as to how the trustees may be contacted. [2012 c 206 § 2; 2005 c 365 § 21; 1996 c 217 § 8; 1995 1st sp.s. c 18 § 62; 1989 c 390 § 3; 1982 c 66 § 3.]

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

RCW 18.39.255 Prearrangement contracts—Insurance funded—Requirements. Prearranged funeral service contracts funded through insurance shall contain language which:

- (1) States the amount of insurance;
- (2) Informs the purchaser of the name and address of the insurance company through which the insurance will be provided and the name of the beneficiary;
- (3) Informs the purchaser that amounts paid for insurance may not be refundable;
- (4) Informs that any funds from the policy not used for services may be subject to a claim for reimbursement for long-term care services paid for by the state; and
- (5) States that for purposes of the contract, the procedures in RCW 18.39.250(11)(b) shall control such recoupment. [2005 c 365 § 22; 1995 1st sp.s. c 18 § 63; 1989 c 390 § 4.]

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

RCW 18.39.260 Prearrangement contracts—Certificates of registration required—Exception. A funeral establishment shall not enter into prearrangement funeral service contracts in this state unless the funeral establishment has obtained a certificate of registration issued by the board and such certificate is then in force.

Certificates of registration shall be maintained by funeral establishments and the funeral establishment shall comply with all requirements related to the sale of prearrangement contracts until all obligations have been fulfilled. The board may, for just cause, release a funeral establishment from specific registration or reporting requirements. [1989 c 390 § 5; 1986 c 259 § 67; 1982 c 66 § 4.]

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

RCW 18.39.270 Prearrangement contracts—Registration qualifications. To qualify for and hold a certificate of registration, a funeral establishment must:

- (1) Be licensed pursuant to this chapter; and
- (2) Fully comply with and qualify according to the provisions of this chapter. [1982 c 66 § 5.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

RCW 18.39.280 Prearrangement contracts—Application for registration. To apply for an original certificate of registration, a funeral establishment must:

- (1) File with the board its request showing:
 - (a) Its name, location, and organization date;

(b) The kinds of funeral business it proposes to transact;
(c) A statement of its financial condition, management, and affairs on a form satisfactory to or furnished by the board;
(d) Documents establishing its trust, or its affiliation with a master trust, and the names and addresses of the trustees if a trust is to be used to finance prearrangement funeral service contracts;
(e) Documents establishing its relationship with insurance carriers if insurance is to be used to finance;
(f) Documents establishing any other financing relationships; and
(g) Such other documents, stipulations, or information as the board may reasonably require to evidence compliance with the provisions of this chapter.

(2) Deposit with the director the fees required by this chapter to be paid for filing the accompanying documents, and for the certificate of registration, if granted. [1989 c 390 § 6; 1986 c 259 § 68; 1982 c 66 § 7.]

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

Fees: RCW 18.39.290.

RCW 18.39.290 Prearrangement contracts—Registration—Renewal—Fees—Disposition. All certificates of registration issued pursuant to this chapter shall continue in force until the expiration date unless suspended or revoked. A certificate shall be subject to renewal annually ninety days after the end of its fiscal year, as stated on the original application, by the funeral establishment and payment of the required fees.

The director shall determine and collect fees related to certificate of registration licensure.

All fees so collected shall be remitted by the director to the state treasurer not later than the first business day following receipt of such funds and the funds shall be credited to the funeral directors and embalmers account. [1993 c 43 § 1; 1986 c 259 § 69; 1982 c 66 § 8.]

Effective date of 1993 c 43—1993 sp.s. c 24: "Chapter 43, Laws of 1993 is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 sp.s. c 24 § 931.]

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

RCW 18.39.300 Grounds for disciplinary action. In addition to the grounds for action set forth in RCW 18.235.130, the board may take the disciplinary action set forth in RCW 18.235.110 against the funeral establishment's license, the license of any funeral director

and/or the funeral establishment's certificate of registration, if the licensee or registrant:

- (1) Fails to comply with any provisions of this chapter or any proper order or regulation of the board;
- (2) Is found by the board to be in such condition that further execution of prearrangement contracts could be hazardous to purchasers or beneficiaries and the people of this state;
- (3) Refuses to be examined, or refuses to submit to examination by the board when required;
- (4) Fails to pay the expense of an examination; or
- (5) Is found by the board after investigation or receipt of reliable information to be managed by persons who are incompetent or untrustworthy or so lacking in managerial experience as to make the proposed or continued execution or servicing of prearrangement funeral service contracts hazardous to purchasers, beneficiaries, or to the public. [2002 c 86 § 219; 1989 c 390 § 7; 1986 c 259 § 70; 1982 c 66 § 6.]

Effective dates—2002 c 86: See note following RCW 18.08.340.

Part headings not law—Severability—2002 c 86: See RCW 18.235.902 and 18.235.903.

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

RCW 18.39.320 Prearrangement contracts—Annual financial statement—Failure to file. (1) Each funeral establishment which has prearrangement funeral service contracts outstanding shall annually, as required by the board, file with the board a true and accurate statement of its financial condition and transactions and affairs involving prearrangement funeral service contracts for its preceding fiscal year. The statement shall be on such forms and shall contain such information as required by this chapter and by the board.

(2) The board shall take disciplinary action against the certificate of registration of any funeral establishment which fails to file its annual statement when due or after any extension of time which the board has, for good cause, granted. [1989 c 390 § 8; 1986 c 259 § 71; 1982 c 66 § 10.]

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

RCW 18.39.330 Prearrangement contract forms—Approval required—Grounds for disapproval. No prearrangement funeral contract forms shall be used without the prior approval of the board.

The board shall disapprove any such contract form, or withdraw prior approval, when such form:

- (1) Violates or does not comply with this chapter;

(2) Contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the merchandise or service purported to be provided in the general coverage of the contract;

(3) Has any title, heading, or other part of its provisions which is misleading;

(4) Is being solicited by deceptive advertising;

(5) Fails to disclose fully the terms of the funeral service being provided by the contract, including but not limited to, any discounts, guarantees, provisions for merchandise or service substitutions or other significant items; or

(6) Is not written in language which the board considers to be easily understood by the purchaser. [1989 c 390 § 9; 1986 c 259 § 72; 1982 c 66 § 11.]

Severability—1986 c 259: See note following RCW 18.130.010.

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

RCW 18.39.345 Prearrangement trust—Examination by board. (1) The board shall examine a prearrangement funeral service trust whenever it deems it necessary, but at least once every three years, or whenever the licensee fails after reasonable notice from the board to file the reports required by this chapter or the board.

(2) The expense of the prearrangement funeral service trust examination shall be paid by the licensee and shall not be deducted from the earnings of the trust.

(3) Such examination shall be conducted in private in the principal office of the licensee and the records relating to prearrangement funeral service contracts and prearrangement funeral service trusts shall be available at such office. [2005 c 365 § 23; 1989 c 390 § 10.]

RCW 18.39.350 Violations—Penalty—Consumer protection—Retail installment contracts. Any person who violates or fails to comply with, or aids or abets any person in the violation of, or failure to comply with any of the provisions of this chapter is guilty of a class C felony pursuant to chapter 9A.20 RCW. Any such violation constitutes an unfair practice under chapter 19.86 RCW and this chapter and conviction thereunder is grounds for license revocation under this chapter and RCW 18.235.110. Retail installment contracts under this chapter shall be governed by chapter 63.14 RCW. [2002 c 86 § 220; 1989 c 390 § 11; 1982 c 66 § 13.]

Effective dates—2002 c 86: See note following RCW 18.08.340.

Part headings not law—Severability—2002 c 86: See RCW 18.235.902 and 18.235.903.

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

Unlawful business practices—Penalty: RCW 18.39.220.

RCW 18.39.360 Fraternal or benevolent organizations and labor unions excepted. This chapter does not apply to any funeral right or benefit issued or granted as an incident to or by reason of membership in any fraternal or benevolent association or cooperative or society, or labor union not organized for profit. [1989 c 390 § 12; 1982 c 66 § 14.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

RCW 18.39.370 Prearrangement service contracts—Abandoned trusts. Any trust which has not matured or been refunded and for which no beneficiary can be located fifty years after its creation shall be considered abandoned and will be handled in accordance with the escheat laws of the state of Washington. [1989 c 390 § 13.]

RCW 18.39.410 Unprofessional conduct. In addition to the unprofessional conduct described in RCW 18.235.130, the board may take disciplinary action and may impose any of the sanctions specified in RCW 18.235.110 for the following conduct, acts, or conditions, except as provided in RCW 9.97.020:

(1) Solicitation of human remains by a licensee, registrant, endorsement, or permit holder, or agent, assistant, or employee of the licensee, registrant, endorsement, or permit holder whether the solicitation occurs after death or while death is impending. This chapter does not prohibit general advertising or the sale of prearrangement funeral service contracts;

(2) Solicitation may include employment of solicitors, payment of commission, bonus, rebate, or any form of gratuity or payment of a finders fee, referral fee, or other consideration given for the purpose of obtaining or providing the services for human remains or where death is impending;

(3) Acceptance by a licensee, registrant, endorsement, or permit holder or other employee of a funeral establishment of a commission, bonus, rebate, or gratuity in consideration of directing business to a cemetery, crematory, alkaline hydrolysis, or natural organic reduction facility, mausoleum, columbarium, florist, or other person providing goods and services to the disposition of human remains;

(4) Using a casket or part of a casket that has previously been used as a receptacle for, or in connection with, the burial or other disposition of human remains without the written consent of the person lawfully entitled to control the disposition of remains of the deceased person in accordance with RCW 68.50.160. This subsection does not prohibit the use of rental caskets, such as caskets of which the outer shell portion is rented and the inner insert that contains the human remains is purchased and used for the disposition, that are disclosed as such in the statement of funeral goods and services;

(5) Violation of a state law, municipal law, or county ordinance or regulation affecting the handling, custody, care, transportation, or disposition of human remains, except as provided in RCW 9.97.020;

(6) Refusing to promptly surrender the custody of human remains upon the expressed order of the person lawfully entitled to its custody under RCW 68.50.160;

(7) Selling, or offering for sale, a share, certificate, or an interest in the business of a funeral establishment, or in a corporation, firm, or association owning or operating a funeral establishment that promises or purports to give to purchasers a right to the services of a licensee, registrant, endorsement, or permit holder at a charge or cost less than offered or given to the public;

(8) Violation of any state or federal statute or administrative ruling relating to funeral practice, except as provided in RCW 9.97.020;

(9) Knowingly concealing information concerning a violation of this title. [2019 c 432 § 39; 2016 c 81 § 9; 2005 c 365 § 24; 2002 c 86 § 221; 1994 c 17 § 3.]

Effective date—2019 c 432: See note following RCW 68.05.175.

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Effective dates—2002 c 86: See note following RCW 18.08.340.

Part headings not law—Severability—2002 c 86: See RCW 18.235.902 and 18.235.903.

RCW 18.39.420 Complaint to board—Submittal—Determination—Investigation—Immunity of complainant. A person, including but not limited to a consumer, licensee, corporation, organization, and state and local governmental agency, may submit a written complaint to the board charging a license, registration, endorsement, or permit holder or applicant with unprofessional conduct and specifying the grounds for the complaint. If the board determines that the complaint merits investigation, or if the board has reason to believe, without a formal complaint, that a license holder or applicant might have engaged in unprofessional conduct, the board shall investigate to determine whether there has been unprofessional conduct. A person who files a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint. [1994 c 17 § 4.]

RCW 18.39.450 Findings of fact—Order—Notice—Report. (1) In the event of a finding of unprofessional conduct, the board shall prepare and serve findings of fact and an order as provided in chapter 34.05 RCW and the board shall notify the public, which notice must include press releases to appropriate local news media and the major news wire services. If the license, registration, endorsement, or permit holder or applicant is found to have not committed unprofessional conduct, the board shall immediately prepare and serve findings of fact and an order of dismissal of the charges. The board shall retain the findings of fact and order as a permanent record.

(2) The board shall report the issuance of statements of charges and final orders in cases processed by the board to:

(a) The person or agency who brought to the board's attention information that resulted in the initiation of the case;

(b) Appropriate organizations, public or private, that serve the professions; and

(c) Counterpart licensing boards in other states or associations of state licensing boards.

(3) This section does not require the reporting of information that is exempt from public disclosure under chapter 42.56 RCW. [2005 c 274 § 223; 1994 c 17 § 7.]

RCW 18.39.467 License suspension—Noncompliance with support order—Reissuance. In the case of suspension for failure to comply with a support order under chapter 74.20A RCW or a *residential or visitation order under chapter 26.09 RCW, if the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of a license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order. [1997 c 58 § 820.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

RCW 18.39.525 Certificates of removal registration. (1) The director shall issue a certificate of removal registration to a funeral establishment licensed in another state contiguous to Washington, with laws substantially similar to the provisions of this section, for the limited purpose of removing human remains from Washington prior to submitting a report of death. Licensed funeral establishments wishing to participate must: Apply to the department of licensing for a certificate of removal registration, on a form provided by the department, and pay the required application fee, as set by the director.

(2) For purposes of this section, each branch of a registrant's funeral establishment is a separate establishment and must be registered as a fixed place of business.

(3) Certificates of death are governed by RCW 70.58A.200.

(4) Notices of removal and disposition permits are governed by RCW 70.58A.210.

(5) The conduct of funeral directors, embalmers, or any other person employed by or acting on behalf of a removal registrant is the direct responsibility of the holder of the certificate of removal registration.

(6) The board may impose sanctions upon the holder of a certificate of removal registration if the registrant is found to be in violation of any death care statute or rule.

(7) Certificates of removal registration expire January 31st, or as otherwise determined by the director. [2019 c 148 § 29; 2005 c 365 § 26.]

Effective date—Rule-making authority—2019 c 148: See RCW 70.58A.901 and 70.58A.902.

RCW 18.39.530 Practice without license—Penalties. Unlicensed practice of a profession or operation of a business for which a license, registration, endorsement, or permit is required under this chapter, unless otherwise exempted by law, is a gross misdemeanor. Fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section must be remitted to the board. [2002 c 86 § 222; 1994 c 17 § 15.]

Effective dates—2002 c 86: See note following RCW 18.08.340.

Part headings not law—Severability—2002 c 86: See RCW 18.235.902 and 18.235.903.

RCW 18.39.560 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 223.]

Effective dates—2002 c 86: See note following RCW 18.08.340.

Part headings not law—Severability—2002 c 86: See RCW 18.235.902 and 18.235.903.

RCW 18.39.570 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the board determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 4.]

RCW 18.39.810 Funeral and cemetery account. The funeral and cemetery account is created in the custody of the state treasurer. All receipts from fines and fees collected under this chapter and chapter 68.05 RCW must be deposited in the account. Expenditures from the account may be used only to carry out the duties required for the operation and enforcement of this chapter and chapter 68.05 RCW. Only the director of licensing or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. During the 2017-2019 biennium, the legislature may transfer moneys from the funeral and cemetery account to the skeletal human remains assistance account. [2018 c 299 § 919; 2009 c 102 § 24.]

Effective date—2018 c 299: See note following RCW 43.41.433.

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: "Any residual balance of funds remaining in the funeral directors and embalmers account and the cemetery account must be transferred to the funeral and cemetery account established in section 24 of this act. The treasurer shall make the transfer after being notified by the office of financial management that it has completed the financial statement for fiscal year 2009, and no later than December 31, 2009."
[2009 c 102 § 25.]