

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

000. LEGAL AUTHORITY.

The following rules are promulgated pursuant to Section 54-1106 and 54-1107, Idaho Code. (3-28-23)

001. SCOPE.

These rules govern the practice of morticians, funeral directors, and funeral establishments in Idaho. (3-28-23)

002. -- 249. (RESERVED)

250100. RESIDENT TRAINEE LICENSURE:

~~A Resident Trainee is a person who is licensed to train, under the direct and immediate supervision of a sponsoring mortician, to become a licensed mortician or funeral director. (3-28-23)~~

01. TRAINING Requirements Resident Trainee. To be licensed as a Resident Trainee, as defined in Section 54-1112, Idaho Code, an applicant must meet the following requirements. (3-28-23)

~~a. Full-time employment requires that the To meet the twelve (12) month requirement set forth in Idaho Code 54-1109(2)(b), a Resident Trainee be employed for at least thirty-six (36) hours per week for fifty (50) weeks per year within the an Idaho mortuary where the Resident Trainee's sponsoring mortician is practicing for the entirety of any twelve (12) months within the three-year trainee period set forth in Idaho Code 54-1112(4). (3-28-23)~~

~~b. i. At least three-fourths (3/4) of the Resident Trainee's training must consist of the sponsoring mortician instructing and demonstrating practices and procedures to increase the Resident Trainee's knowledge of the service performed by a mortician or a funeral director as defined in Chapter 11, Title 54, Idaho Code. (3-28-23)~~

~~ii. For the balance of the required hours, Personal supervision as required in Chapter 11, Title 54, Idaho Code, shall be defined as the sponsoring mortician, or his a licensed appointee, must being immediately available in person or remotely to consult with the Resident Trainee. (3-28-23)~~

~~cb. All training must occur within Idaho. (3-28-23)~~

~~de. A Resident Trainee shall not sign a death certificate. (3-28-23)~~

02. Sponsoring Mortician. A sponsoring mortician must: (3-28-23)

a. Be an Idaho-licensed mortician who practices in Idaho. (3-28-23)

b. Not serve as the sponsoring mortician for more than two (2) Resident Trainees at any given time.² (3-28-23)

c. Supervise and instruct the Resident Trainee, and provide demonstrations for and consultations to the Resident Trainee, ~~as described in Subsection 250.01, of this rule.~~ (3-28-23)

d. Complete and co-sign, with the Resident Trainee, quarterly and final reports. These reports must be completed on forms approved by the Board ~~and document the information described in Subparagraphs 250.04.c. and 250.04.d., of this rule.~~ The sponsoring mortician must promptly submit a report within thirty (30) days after the period of time covered by the report ~~ends.~~ (3-28-23)

e. Promptly notify the Board in writing if a Resident Trainee's training is terminated, ~~including~~

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~~termination due to interruption as specified in Subsection 250.05 of this rule and submit a final report documenting training up to the termination date. (3-28-23)~~

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~~**03. Eligibility to Be Licensed.** For purposes of accounting for total cumulative training as a Resident Trainee, the sponsoring mortician must notify the Division at the beginning and termination of the training period. When a Resident Trainee completes training, the Resident Trainee must complete the remaining qualifications for licensure as a mortician or funeral director within the following three (3) years or show good reason for further delay. (3-28-23)~~

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~~**04. Inactive Licenses.** Licensees may apply for inactive status by making written application and paying the established fee. (3-28-23)~~

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~~**a.** All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. (3-28-23)~~

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~~**b.** An inactive license holder may convert from inactive to active license status by:~~

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~~**i.** Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and (3-28-23)~~

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~~**ii.** Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee.~~

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~~**05. Continuing Education.** Each Idaho licensed mortician and funeral director must successfully complete a minimum of ten (10) hours of continuing education biennially for license renewal, such hours must be verified by a certificate of attendance which may be audited by the Board. A licensee shall not be required to complete continuing education in their first renewal period after initial licensure. The continuing education must be germane to the profession and approved by the Board. The Board has discretion to exempt a licensee from this requirement for reasons of individual hardship, including health, or other good cause. Applicants seeking reinstatement must provide proof of attendance of ten (10) hours of continuing education for the previous twenty-four (24) months.~~

~~**06. Funeral Establishment and Crematory Establishment.** Applicants shall submit a Board-approved application form. A walk-through inspection of the establishment must be arranged and completed before the board will issue an establishment license.~~

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~~**a. Change in Ownership or Location.** Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. (3-28-23)~~

~~**b. Funeral Establishment.** All funeral establishments shall be required to provide each of the following: (3-28-23)~~

~~**i.** An operating room and necessary equipment for embalming; (3-28-23)~~

~~**ii.** A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; (3-28-23)~~

~~**iii.** A chapel where funeral or other religious ceremonies may be held; and (3-28-23)~~

~~**iv.** A room for viewing and visitation. (3-28-23)~~

~~**c. Crematory Establishment.** All crematory establishments shall be required to provide each of the following: (3-28-23)~~

~~**i.** Detailed information regarding each retort, specifically documenting that each retort and~~

accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, an appropriate purpose-built vessel with documented validation for sterilization; and (3-28-23)

ii. One (1) set of plans approved by the local building department for the proposed new construction or remodeling where the retort is to be located. (3-28-23)

d. Minimum Standards.

i. Reasonable Sanitation and Safety Required. No license will be issued to operate a funeral establishment or crematory unless it is apparent that the establishment or crematory can and will be operated in a reasonably sanitary and safe manner and that all pertinent federal, state, and local permits have been obtained, including when operating an alkaline hydrolysis retort. (3-28-23)

ii. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, unless the county coroner in the county in which the death occurred gives written authorization to cremate the body. (3-28-23)

iii. Embalming. If a dead human body is to be held longer than twenty-four (24) hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of. (3-28-23)

iv. Casket Not Necessary. While caskets may be used in cremation, a crematorium may develop internal requirements allowing other containers for aesthetic or sanitary reasons.

v. Funeral Rule. Licensees are required to comply with Federal Funeral Industry Practices, 16 CFR Part 453, commonly known as the Funeral Rule.

~~251101. — 29149.~~ (RESERVED)

~~300. APPLICATIONS AND EXAMINATION.~~
~~In order to be admitted to the examination, the applicant must submit a completed application on forms provided by the Division and provide all requested documentation including proof of having completed the training period as prescribed by law and these rules, and meet the specific requirements for license as set forth in Section 54-1109 of the Idaho Code. (3-28-23)~~

~~301. — 324. (RESERVED)~~

325150. APPROVED EXAMINATION.
Applicants for licensure shall successfully pass the examinations set forth below. (3-28-23)

01. Mortician Examination. The Mortician examination shall consist of: (3-28-23)

a. All sections of the International Conference of Funeral Service Examining Board's National Board Examination; and (3-28-23)

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-28-23)

02. Funeral Director. The funeral director examination shall consist of: (3-28-23)

a. The the Arts section of the State-Based Examination conducted by the International Conference of Funeral Service Examination Board; and (3-28-23)

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-28-23)

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(3-28-23)

Commented [GL7]: Idaho Code 67-9409(4), passed in 2023, does away with jurisprudence exams. This must be removed.

Commented [GL8]: Ask Steve Gordon who drafts this

Commented [GL9]: See above.

03. **Grading.** The required average grade to pass the examination is seventy-five percent (75%). Provided further, that where the applicant has a score of less than seventy percent (70%) in one (1) or more subjects, such applicant shall not be passed, notwithstanding that his average mark may be higher than seventy-five percent (75%), however, should the applicant apply for reexamination he may, by board approval, be required to retake only that portion of the examination which he failed in previous examination. (3-28-23)

326151, -- 379199.

(RESERVED)

380. **INACTIVE LICENSE.**

01. **Request for Inactive License.** Persons holding an unrestricted mortician or funeral director license in this state may apply for inactive status by making written application to the Board on a form prescribed by the Board and paying the established fee. (3-28-23)

02. **Inactive License Status.** (3-28-23)

a. If a licensee holds a certificate of authority and places their license on inactive status, their certificate of authority expires as of the date their license becomes inactive. (3-28-23)

b. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. (3-28-23)

03. **Return to Active License Status.** An inactive license holder may convert from inactive to active license status by:

a. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and (3-28-23)

b. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. (3-28-23)

c. An inactive licensee who held a certificate of authority at the time their license became inactive who returns to active license status pursuant to this rule may be reissued a certificate of authority by paying the renewal fee for the certificate of authority. (3-28-23)

381. -- 409. (RESERVED)

410. **CONTINUING EDUCATION.**

01. **Continuing Education (CE) Requirement.** Each Idaho licensed mortician and funeral director must successfully complete a minimum of eight (8) hours of continuing education annually for license renewal. (3-28-23)

a. Each licensee certifies on their renewal application form that compliance with the annual CE requirements has been met during the previous twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. (3-28-23)

b. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. (3-28-23)

c. Prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. (3-28-23)

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Commented [GL14]: Consider removing. While explicitly allowed under 54-1115A, any barrier to licensure that is not necessary for public protection should be removed. And the research indicates that CE mandates have no correlation with public protection. See:

Haynes, R. Brian, et. al., *A Critical Appraisal of the Efficacy of Continuing Medical Education*, 1984 - <https://jamanetwork.com/journals/jama/article-abstract/390881> (From the abstract – “Seven articles met all our criteria and were reviewed in detail. These studies provide convincing evidence that CME can improve physician behaviors. However, only three of these methodologically sound studies assessed patient outcomes and only one demonstrated any improvement in outcomes.”)

Smith, June, *Exploring the Efficacy of Continuing Education Mandates*, 2004 - https://journals.lww.com/jonlaw/Abstract/2004/03000/Exploring_the_Efficacy_of_Continuing_Education.6.aspx (“Nurses mandated to collect CE hours did not experience more growth in their professional abilities nor did they accumulate more total hours of CE than those without such a mandate. Those with mandates did, however, attend more hours of CE that were unrelated to their work or interest, and were more likely to attend CE by correspondence.”)

Griscti, Odette, et al., *Effectiveness of Continuing Education Programmes in Nursing: Literature Review*, 2006 - <https://pubmed.ncbi.nlm.nih.gov/16866840/> (While the philosophy behind continuing education is to encourage nurses to become lifelong learners, the learning method chosen for such programmes is often didactic in nature, as opposed to encouraging nurses to take initiative and direct their own learning. Continuing education is intended to ensure healthcare practitioners' knowledge is current, ... [1])

Commented [GL15R14]: Do Prospective Analysis

Commented [KA16]: Eliminating all CE's may be a hard peanut to crack, in my opinion. Depending on the reaction to the board, we may need to consider a reduction rather than elimination.

~~02. Credit. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on line may be approved for continuing education if the courses require an exam or other proof of successful completion. Only four (4) hours of the required continuing education may be from correspondence, computer on line, or self study in each renewal period. The remaining hours must be in an interactive setting that provides the opportunity for participants to communicate directly with the instructor. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. (3-28-23)~~

~~a. A licensee may carry over a maximum of eight (8) hours of continuing education to meet the next year's continuing education requirement. Only four (4) hours may be carried over from correspondence, computer on line, or self study. (3-28-23)~~

~~03. Providers/Sponsors/Subjects of Continuing Education. The continuing education must be provided by a college or university, a national or state association, trade group, or other person or entity approved by the Board and must be germane to the license held. Continuing education may include, but will not be limited to, the following subject areas: (3-28-23)~~

~~a. Public Health and Technical. This includes, but is not limited to, embalming, restorative art, after care, organ procurement, sanitation, and infection control. (3-28-23)~~

~~b. Business Management. This includes, but is not limited to, computer application, marketing, personnel management, accounting, or comparable subjects. (3-28-23)~~

~~c. Social Science. This includes, but is not limited to, communication skills (both written and oral), sociological factors, counseling, grief psychology, funeral customs, or comparable subjects. (3-28-23)~~

~~d. Legal, Ethical, Regulatory. This includes, but is not limited to, OSHA (Occupational Safety and Health Association), FTC (Federal Trade Commission), ethical issues, legal interpretations, or comparable subjects. (3-28-23)~~

~~04. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. (3-28-23)~~

~~05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for a licensee who fails to certify compliance with CE requirements. A licensee who makes a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. (3-28-23)~~

~~06. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health or other good cause. Each licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Request for special exemption must be made prior to licensure renewal. (3-28-23)~~

~~411. - 424. (RESERVED)~~

~~425200. PRACTICE STANDARDS~~

~~Maintenance Of Pre-Need Trust Account Fees.~~

~~01. MAINTENANCE OF PRE-NEED TRUST ACCOUNTS FEE. Pursuant to section 54-1134(4), ~~idaho~~code, a fee not to exceed ten percent (10%) of the annual earned interest income may be charged for maintenance of pre-need trust accounts.~~

~~02. Receipt for Bodies to be Cremated. The following must be performed by the operator of a crematory upon receipt of a human body for cremation.~~

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426. — 449. — (RESERVED)

450. — FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT.

Applicants shall submit a board-approved application form. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure. A walk-through inspection of the establishment must be arranged and completed within six (6) months of the Board's review of the application or the application will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (3-28-23)

01. — Change in Ownership or Location. Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. (3-28-23)

02. — Funeral Establishment. All funeral establishments shall be required to provide each of the following: (3-28-23)

a. — An operating room and necessary equipment for embalming; (3-28-23)

b. — A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; (3-28-23)

c. — A chapel where funeral or other religious ceremonies may be held; and (3-28-23)

d. — A room for viewing and visitation. (3-28-23)

03. — Funeral Firm. Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following: (3-28-23)

a. — The price of the service that the person or persons have selected and what is included therein. (3-28-23)

b. — The prices of each of the supplementary items of service and/or merchandise requested. (3-28-23)

c. — The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. (3-28-23)

d. — The method of payment. (3-28-23)

e. — If the quoted price includes a basic component of a funeral or a part thereof which is not desired, then a credit thereof should be granted. (3-28-23)

04. — Crematory Establishment. All crematory establishments shall be required to provide each of the following: (3-28-23)

a. — Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, an appropriate purpose-built vessel with documented validation for sterilization; and (3-28-23)

b. — One (1) set of plans approved by the local building department for the proposed new construction or remodeling where the retort is to be located. (3-28-23)

451. — (RESERVED)

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Commented [GL20R19]: 01. is duplicative of 54-1111(1)(e), but helps to clarify, can be left in.
02. is defining the terms "required by the board" under 54-1111(2)

Commented [KA21]: I am wondering if any of the board members are hearing discussions about 'composting' as a way of cremation????

452. MINIMUM STANDARDS.

~~01. Reasonable Sanitation and Safety Required.~~ No license will be issued to operate a funeral establishment or crematory unless it is apparent that the establishment or crematory can and will be operated in a reasonably sanitary and safe manner and that all pertinent federal, state, and local permits have been obtained when operating an alkaline hydrolysis retort. (3-28-23)

~~02. Delay Before Cremation.~~ No dead human body, regardless of cause of death, is to be cremated, nor is actual cremation of such a body to be commenced, unless the county coroner in the county in which the death occurred gives written authorization to cremate the body. (3-28-23)

~~03. Embalming.~~ If a dead human body is to be held longer than twenty-four (24) hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of. (3-28-23)

~~04. Casket Not Necessary.~~ It is not necessary for the body to be in a casket for cremation to take place. (3-28-23)

~~a. This is not to be construed to mean that the crematory must cremate without a casket; and~~ (3-28-23)

~~b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons.~~ (3-28-23)

Commented [KA22]: Is there an opportunity for this to be pared down to a paragraph.

453. RECEIPT FOR BODIES TO BE CREMATED.

The following must be performed by the operator of a crematory upon receipt of a human body for cremation: (3-28-23)

~~01a. Provide a Receipt.~~ A receipt must be delivered to the licensed mortician or funeral director, his agent, or another person who delivers such body to the crematory. (3-28-23)

~~02b. Contents of Receipt.~~ The receipt must show: (3-28-23)

~~ai.~~ The name of the decedent whose body was received; ~~and~~ (3-28-23)

~~bii.~~ The date on which that body was received; ~~and~~ (3-28-23)

~~ciii.~~ The place where that body was received; ~~and~~ (3-28-23)

~~dii.~~ The name and address of the funeral establishment from whom that body was received; and (3-28-23)

~~ey.~~ The name and address of the person, or the names and addresses of the persons, if more than one (1), who actually delivers the body. (3-28-23)

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454. RECORDS OF BODIES.

~~013. Content of RecordRecords of Bodies.~~ Each funeral establishment and crematory must maintain a record of each burial, cremation, or other disposition of human remains, disclosing: (3-28-23)

~~a.~~ The name of the decedent; ~~and~~ (3-28-23)

~~b.~~ The name and address of the person, or names and addresses of the persons if more than one (1), authorizing the burial, cremation, or other disposition of that body; ~~and~~ (3-28-23)

Commented [KA23]: Again, lets look to see if board members who are licensees are seeing areas to change here.

c. ~~An statement as to whether or not the body was embalmed~~embalming report or refrigeration log which shows the date(s) and time(s) a body was placed into or removed from refrigeration; ~~and~~ (3-28-23)

d. The date of the burial, cremation, or other disposition of that body; and (3-28-23)

e. The ~~subsequent disposal-custodial transfer~~ of any cremated remains, including the name and signature of the recipient and date of transfer. (3-28-23)

455. — RESPONSIBILITY, INSPECTION, AND CONFIDENTIALITY OF RECORDS.

044. Responsibility for Record. Records regarding the burial, cremation, and other disposition of human bodies must be made as soon as reasonably possible after the burial, cremation, or other disposition and must be dated and signed by the licensed mortician or funeral director who supervised or was otherwise directly responsible for the burial, cremation, or other disposition. (3-28-23)

025. Inspection of Records. Records regarding the receipt, burial, cremation, and other disposition of human bodies must be maintained at the funeral establishment and crematory and be open for inspection at any reasonable time by the Board or its designated representatives. (3-28-23)

452016. -- 2499. (RESERVED)

300. — DISCIPLINE.

~~The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensee for each violation of Section 54-1116, Idaho Code.~~

301. -- 399. (RESERVED)

500400. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	\$85 200
Funeral Establishment	\$125 300
Crematory Establishment	\$200 480
Mortician	\$85 200
Inactive License	\$40 90
Resident Trainee	\$50 120
Application Fee	\$100 120
Certificate of Authority	\$50 120

(3-28-23)

501. — DISCIPLINE.

~~The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensee for each violation of Section 54-1116, Idaho Code.~~ (3-28-23)

502401. -- 999. (RESERVED)

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Commented [GL24]: Caution! This authority is not expressly set forth in the practice act. These rules have been reviewed and passed by the legislature in the past, so they may have tacitly given authority to fine. This is an unsettled area of law, however. Consider removing to avoid the possibility of liability.

Commented [KA25R24]: I agree with Greg that this is not in statute and I lean towards removing.