

STATEMENT OF EMERGENCY
201 KAR 15:040E

During its 2021 regular session, the General Assembly passed House Bill 220 (attached), an amendment to KRS 316.030 to allow the Board of Embalmers and Funeral Directors to establish fees through the promulgation of administrative regulations and amend KRS 316.030 to remove outdated language and processes. HB 220 was signed by the Governor on March 15, 2021. This emergency regulation is required to ensure the agency is able to be fiscally sound. HB 220 goes into effect June 29, 2021. The renewal period of individuals and establishments for the Kentucky Board of Embalmers and Funeral Directors is July 1 through 31st. This emergency regulation will be replaced by an ordinary regulation and will be submitted at the same time. The ordinary regulation is identical to the emergency.

ANDY BESHEAR, Governor
CHRISTI K. MOFFETT, Executive Director

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Emergency Amendment)

201 KAR 15:040. Examination.

EFFECTIVE: June 30, 2021

RELATES TO: KRS 316.030 4(h), 5(g)

STATUTORY AUTHORITY: KRS 316.030, 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.030 (4)(h) and (5)(g) require an applicant for an embalmer's license or a funeral director's license to pass an examination prepared or approved by the board. This administrative regulation establishes the administration, content, and evaluation of examinations by the board.

Section 1. Exam Administration. (1) ~~[The board shall administer]~~ Examinations for funeral director and embalmer licenses will be held at [the regular meetings of the board.] intervals pre-define on a published calendar.

(2) An applicant seeking to take an examination administered by the board shall submit the fee ~~[required by KRS 316.030(4)(g) or (5)(f)]~~ as defined in KRS 316.030 to the board at least forty-five (45) days before the desired examination.

(a) The examination fee shall include a license in good standing for the remainder of the fiscal year if the applicant is successful in the examination.

(b) An applicant shall be entitled to only one (1) examination for each fee paid.

(3) One (1) or more members of the board shall administer the ~~[written]~~ oral examination for a license issued by the board.

(4) An applicant may seek a reasonable accommodation in the manner for which an examination by the board is given.

(a) Accommodations will be considered by the board on the same basis as reasonable accommodations that may be available under the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

(b) An applicant who takes an examination with a reasonable accommodation must still perform the essential functions of taking the examination and meet the normal performance requirements for passage.

(5) At the discretion of the board, examinations may be held at other times, if necessary.

Section 2. Content of Examination. (1) The examination for an embalmer's license shall include the following subjects:

- (a) Embalming;
- (b) Anatomy;
- (c) Microbiology;
- (d) Pathology;
- (e) Chemistry;
- (f) Restorative art;
- (g) Mortuary administration and law;
- (h) Accounting;
- (i) Sociology;
- (j) Psychology; and
- (k) Requirements of KRS Chapter 316 and the administrative regulations promulgated pursuant to KRS Chapter 316.

(2) The examination for a funeral director's license shall include the following subjects:

- (a) Mortuary administration;
- (b) Ethics;
- (c) Accounting;
- (d) Sociology;
- (e) Business law;
- (f) Primary psychology;
- (g) Transportation rules;
- (h) Hygiene, sanitation, and disinfection; and
- (i) Requirements of KRS Chapter 316 and the administrative regulations promulgated pursuant to KRS Chapter 316.

(3) All written questions for the embalmer's and funeral director's examinations are the property of the board and applicants shall return the questions to the board with their answers.

Section 3. Evaluation. A score of seventy-five (75) percent on ~~[any]~~ a board authorized examination ~~[administered by the board]~~ shall constitute a passing grade.

Section 4. Alternative to Written Examination by the Board. An applicant who has successfully completed the examination prepared and administered by the Conference of Funeral Service Examining Boards may request exemption from the written embalmer examination. The applicant shall successfully complete an oral examination administered by one (1) or more members of the board in lieu of the written embalmer examination.

CHRISTI K. MOFFETT, Executive Director

APPROVED BY AGENCY: June 29, 2021

FILED WITH LRC: June 30, 2021 at 12:56 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 23, 2021 at 9:00 a.m., via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written com-

ments shall be accepted until August 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Christi Moffett, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502.426.4589 fax 502.426.4117; email christik.moffett@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Christi Moffett

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation moves all fees into one regulation

(b) The necessity of this administrative regulation: HB220 removed fees from statutes placing them in administrative regulations. The bill goes into effect 6/29/21. Board renewals start 7/1/21.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation brings all the fees into one regulation for easy access.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: All the fees will be located in one regulation.

(b) The necessity of the amendment to this administrative regulation: HB220 removed fees from statutes placing them in administrative regulations. The bill goes into effect 6/29/21. Board renewals start 7/1/21.

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Moving all the fees into one regulation will make it easier for readers.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Pay renewal or fee as defined

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Apprentices will pay \$75 per license

Establishments will pay the following based on their volume (case count)

Case Counts	Fee
99+	\$ 450
100-299	\$ 550
300-499	\$ 650
500+	\$ 750

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be legally licensed for a period of one year for establishments. Apprentice applications will be processed and presented to the board for consideration.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: These fees are not increasing; just being moved to a single regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation gathers all the fees into one regulation. There is a fee increase for establishments based on case counts.

(9) TIERING: Is tiering applied? Yes,

Case Count	%	KBEFD Est	# Fees
99+	54%	275	\$ 450
100-299	40%	204	\$ 550
300-499	4%	20	\$ 650
500+	2%	10	\$ 750

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Funeral Directors, Embalmers

Funeral Establishments and Embalming Services

Funeral Apprentices

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

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KRS 316.030(4)(g)

KRS 316.030(5)(f)

KRS 316.125(2)(a)

201 KAR 15:040 Section 1(1)

201 KAR 15:040 Section 3(3)

201 KAR 15:040 Section 4(1)

201 KAR 15.050 Section 4(5)

201 KAR 15:110 Section 5(5)b.

201 KAR 15:110 Section 5(5)c.

201 KAR 15:110 Section 5(5)d.

201 KAR 15:110 Section 5(5)e.

201 KAR 15:125 Section 1(2)(b)

201 KAR 15:125 Section 2(1)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? No additional cost to the agency

(d) How much will it cost to administer this program for subsequent years? No additional cost to the agency

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

PROPOSED

Case Calls	# KBEFD Facilities	Fee	Income
99+	275	\$ 450	\$ 123,750
100-299	204	\$ 550	\$ 112,200
300-499	20	\$ 650	\$ 13,000
500+	10	\$ 750	\$ 7,500
	510		\$ 256,450

EXISTING

Existing	KBEFD Facilities	Fee	Income
Flat Fee	510	\$ 200	\$ 102,000

Expenditures: None

Other Explanations: None