

201 KAR 15:110. Funeral establishment criteria.

RELATES TO: KRS 316.010, 316.030, 316.125, 316.127, 316.130, 316.260, 16 C.F.R. 453.2(b)(2)-(5), 29 U.S.C. 651

STATUTORY AUTHORITY: KRS 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.125(1) requires a license from the board for the operation of a funeral establishment. KRS 316.210(1) authorizes the board to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. This administrative regulation establishes the minimum requirements for the licensing and operation of a funeral establishment.

Section 1. Definitions. (1) "Chapel" means an area where a family and the public may pay their respects to a deceased human being, or an area where funerals or memorial services can be held, and which is a separate and distinct area from the preparation room.

(2) "Preparation room" means an area with a minimum of 100 square feet, which is used exclusively to prepare dead human bodies for final disposition if arterial or cavity injection is a function of the establishment, and which is separate and distinct from the viewing area, chapel, or any other part of the establishment.

(3) "Viewing area" means an area in which a family and the public may pay their respects to a deceased human being.

Section 2. General Requirements. (1) The interior and exterior of the establishment shall be kept free and clean of litter, dirt, debris, and clutter or other objects or conditions which present a potential or actual hazard to the health, safety, or welfare of the public and the funeral establishment's employees.

(2) A person shall not be permitted to be in a preparation room during the course of embalming a dead human body except employees of the establishment in which the human body is being embalmed, registered apprentices, members of the family of the deceased, or authorized representatives of the deceased, or any other individual otherwise allowed by law.

(3) An establishment shall maintain the following documents, if applicable:

(a) Board approved embalming reports which set out the name of each body embalmed, the date of death, the date and time that the embalming took place, the name and signature of the embalmer, and the embalmer's license number;

(b) Proper documentation of the authorization to embalm; and

(c) Accurate and current copies of the casket price list, the outer burial container price list, the general price list, and the statement of funeral goods and services selected as required by the Federal Trade Commission in 16 C.F.R. 453.2(b)(2) through (5), as maintained in the general practice of the establishment.

(4) The funeral establishment shall maintain embalming reports and documentation of embalming authorization for a minimum of three (3) years.

(5) A license for establishment shall not be granted for establishments located in any public office building, strip mall, public storage, mini-storage, mini-warehouse, multiunit storage complex, or similar facility used by the general public for the storage of goods.

(6) The building in which an establishment is located shall be in conformity with the requirements of the applicable state and local statutes, administrative regulations, ordinances, and zoning provisions.

(7)(a) Each establishment shall display a sign which identifies the name of the establishment.

(b) The sign shall be in a location that is visible from an adjacent public road.

(8) An establishment shall have adequate rest room facilities for members of the public if there will be public funeral services or visitation or ceremonial services conducted in the establishment.

Section 3. Visitation and Ceremonial Funeral Service Establishment. All Visitation and Ceremonial Funeral Service Establishments that provide visitation and ceremonial funeral services shall have facilities which meet the following requirements:

(1) The establishment shall have a viewing area or chapel which shall be at least 400 square feet in size; and

(2) The establishment shall have the applicable equipment necessary for conducting and arranging funeral services, including:

(a) Tables or desks and chairs for arrangement conferences;

(b) Seating for the viewing room;

(c) Casket bier;

(d) Register book stand;

(e) Officiant stand;

(f) Flower display stands; and

(g) Organ, piano, music-producing equipment, or any suitable combination of these items.

Section 4. Embalming Service Establishment. (1) An establishment that provides embalming services shall have facilities and a preparation room which comply with the requirements of the Occupational Safety and Health Act, 29 U.S.C. 651 and shall also require:

(a) At least one (1) approved embalming table and all professional instruments necessary for embalming and the preparation of dead human bodies; and

(b) That a preparation room shall not be used as a storage area other than for supplies pertaining to the embalming and preparation of dead human bodies.

(2) Human remains shall not be prepared for disposition except by a licensed embalmer or a Level 2 apprentice, in accordance with KRS 316.030, in a preparation room which meets the requirements of this administrative regulation.

(3) All windows and doors shall be constructed or screened to prevent persons from looking into the preparation room.

(4) Each preparation room entrance shall be lockable and shall display a sign indicating private or restricted entry.

(5) Licensed embalmers may perform removals and transport dead bodies.

Section 5. Full Service Funeral Establishments. In addition to the regulatory requirements established in Sections 3 and 4 of this administrative regulation, a full service funeral establishment shall meet the following additional requirements:

(1) The establishment shall have an area available to the public devoted to the display of funeral merchandise. Caskets or casket sections may be viewed by sample, computer, catalog, or other display that corresponds to the current general price list for the funeral establishment; and

(2) In addition to the viewing area or chapel, the establishment shall have a separate room or office for arranging funerals. This room may be used to satisfy the requirements of subsection (1) of this section.

Section 6. Inspections. (1) Each establishment shall be subject to inspection at the convenience of the board inspector.

(2) The inspector shall inspect the establishment to see if it has suitable and dignified quar-

ters appropriate for the category of services for which it is licensed.

(3) An establishment that provides embalming services shall have completed and signed embalming reports available for inspection.

(4) The following forms shall be available for inspection, with a copy available to the inspector for the inspector's records:

- (a) A current general price list of charges for services to the public;
- (b) A current price list of caskets as charged to the public; and
- (c) A current price list of outer burial containers as charged to the public.

Section 7. Establishment Supervisor. (1) Each facility establishment shall have a Kentucky-licensed funeral director and a Kentucky-licensed embalmer or an individual licensee as required by KRS 316.125(2)(b)5 to manage and supervise the facility.

(2) The establishment shall notify the board of a change of the funeral director or the embalmer supervisor by submitting the Information and Name Change Application signed by the licensed owner and the new supervisor within five (5) working days of the change.

(3) A supervisor who leaves the employment of an establishment shall notify the board in writing within five (5) working days.

Section 8. Transferability. (1) Establishment licenses shall not be transferable.

(2) If a sale or lease occurs:

(a) The existing establishment license may remain in force by mutual consent of the parties for a period of thirty (30) days or until the next regularly scheduled board meeting, whichever comes first.

(b) During the transition period, the establishment shall be operated under the name shown on the existing license until a new license is issued.

(c) An application for a new license shall be submitted for review at the next board meeting following the sale or lease.

(3) If a relocation or name change occurs, an Information and Name Change Application shall be submitted to the board.

(4)(a) Following the death of a Kentucky-licensed owner, funeral director, or embalmer, the establishment may operate for ninety (90) days while under temporary supervision by a licensed funeral director or embalmer. A licensee who is already identified as the supervisor for another establishment under KRS 316.125(4) may act as the temporary supervisor for the establishment under this section for the limited ninety (90) day period.

(b) The temporary supervisor shall be identified to the board in writing by letter within fifteen (15) days of the death of the Kentucky-licensed owner, funeral director, or embalmer.

(c) A licensee may be the temporary supervisor for only one (1) establishment at a time.

Section 9. Opening of an Establishment. (1) An establishment shall not operate or be opened for business prior to the issuance of an establishment license by the board for that establishment.

(2) To apply for an establishment license, the following shall be submitted to the board:

- (a) A completed Establishment Application;
- (b) The fee required by 201 KAR 15:030, Section 1;
- (c) A picture of the establishment and signage;
- (d) A picture of the manager;
- (e) If purchasing the establishment, a notarized letter from the seller;
- (f) If a corporation, the articles of incorporation;
- (g) If a partnership, the partnership agreement; and

(h) If a limited liability company, the LLC agreement.

(3) Violation of this section shall be grounds for denial of the application for the license by the board.

(4) All establishment licenses shall expire July 31 of each year. Establishments shall renew by submitting the following to the board:

(a) An Establishment Renewal Application;

(b) The renewal fee established in KRS 316.130(4) and 201 KAR 15:030; and

(c) A list of all licensed funeral directors and embalmers affiliated with the establishment.

Section 10. Advertising and Signage. (1) An establishment shall use the exact name listed on the license for the establishment in all advertisements and signage.

(2) Descriptive terms shall be distinctly separated from the name of the establishment in all signage and advertisements unless registered as part of the official name.

(3) Any advertising, designation, or signage for the funeral establishment shall match the classification on the establishment's license.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Establishment Application", 2017;

(b) "Information and Name Change Application", 2017; and

(c) "Establishment Renewal Application", 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. (33 Ky.R. 652; 1066; eff. 11-3-2006; 34 Ky.R. 1528; 1948; eff. 3-7-2008; 44 Ky.R. 121, 914; eff. 12-1-2017.)