

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

**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 316.125(1), 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.125(1) prohibits operating a full-service funeral establishment, a visitation and ceremonial funeral service establishment, or an embalming service establishment without first obtaining the applicable license from the board. 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. 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 that present a potential or actual hazard to the health, safety, or welfare of the public and the funeral establishment's employees.
- (2) Only the following persons shall be permitted in a preparation room during the course of embalming a dead human body:
  - (a) Employees of the establishment where the human body is being embalmed;
  - (b) Registered apprentices;
  - (c) Members of the family of the deceased;
  - (d) Authorized representatives of the deceased; or
  - (e) Any other individual otherwise allowed by law.
- (3) An establishment shall maintain the following documents, if applicable:
  - (a) Board approved embalming reports that include:
    1. The name of each body embalmed;
    2. The date of death;
    3. The date and time that the embalming took place;
    4. The name and signature of the embalmer; and
    5. The embalmer's license number;
  - (b) Proper documentation of the authorization to embalm; and
  - (c) Accurate and current copies of:
    1. The casket price list;
    2. The outer burial container price list;
    3. The general price list; and
    4. The statement 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) An establishment shall maintain embalming reports and documentation of authorization to embalm for a minimum of three (3) years.
- (5) 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 shall be ineligible for a license.
- (6) The building in which an establishment is located, and any sidewalks and parking areas provided adjacent to the establishment, shall be in conformity with the requirements of the applicable federal, state and local statutes, administrative regulations, ordinances, and zoning provisions relating to publicly-accessible buildings and establishments.

- (7) An establishment shall display a sign that:
  - (a) Identifies the name of the establishment; and
  - (b) Is in a location visible from an adjacent public road.
- (8) An establishment shall have adequate rest room facilities for members of the public if public funeral services or visitation or ceremonial services shall be conducted in the establishment.
- (9) The owner or manager of a Kentucky licensed funeral establishment may contract with a Kentucky licensed embalmer employed by another Kentucky licensed funeral establishment to provide embalming services at the Kentucky licensed funeral establishment and pay the contracted Kentucky licensed embalmer for services rendered.

Section 2. Visitation and Ceremonial Funeral Service Establishment. An establishment that provides visitation and ceremonial funeral services shall have:

- (1) A viewing area or chapel that shall be at least 400 square feet in size; and
- (2) 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 3. Embalming Service Establishment.

- (1) An establishment that provides embalming services shall:
  - (a) Have facilities and a preparation room that comply with the requirements of the Occupational Safety and Health Act, 29 U.S.C. 651;
  - (b) Have at least one (1) approved embalming table and all professional instruments necessary for embalming and the preparation of dead human bodies; and
  - (c) Ensure 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 that 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, shall be locked when not in use, and shall display a sign indicating private or restricted entry.
- (5) Licensed embalmers may perform removals and transport dead bodies.

Section 4. Full Service Funeral Establishments. A full service funeral establishment shall have:

- (1) 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) A separate room or office for arranging funerals. This room may be used to satisfy the requirements of subsection (1) of this section.

Section 5. Inspections.

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

- (a) An establishment that is sited on more than one (1) parcel of real estate shall be required to notify the inspector of the location and identity of the separate parcels, and shall be charged a separate inspection fee as set forth in this administrative regulation for each separate parcel, as if each parcel were a separately-licensed establishment.
- (b) Failure of the establishment to be open and available for an inspection within a reasonable period of time after the inspector requests access for inspection shall be deemed by the board to be a violation of KRS Chapter 316, including KRS 316.150(1)(a), and may subject the establishment and its establishment manager to disciplinary action.
- (2) The inspector shall inspect the establishment to see if it has suitable and dignified quarters 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 upon request.
- (4) The following forms shall be available for inspection or copying by the inspector:
  - (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;
  - (c) A current price list of outer burial containers as charged to the public; and
  - (d) All apprentice calendars and apprentice travel forms.
- (5)
  - (a) An establishment seeking an initial inspection for the purpose of obtaining a new license under KRS Chapter 316 may request the inspection by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky, and shall be assessed a fee, as established in 201 KAR 15:030, for the inspection. This fee shall cover the inspector's initial visit, and one (1) subsequent visit for re-inspection to assure that any initial deficiencies have been cured.
  - (b) An establishment licensed under KRS Chapter 316 that is routinely inspected by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky shall be assessed an inspection fee, as established in 201 KAR 15:030, payable to the board. This fee shall not be assessed more than one (1) time per calendar year.
  - (c) An establishment licensed under KRS Chapter 316 that requires a re-inspection within a period of three (3) months following a routine inspection, due to a deficiency found by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky on a routine inspection, shall be assessed a re-inspection fee, as established in 201 KAR 15:030. This fee shall be paid regardless of any disciplinary action that otherwise may be taken against the establishment for the failure of the inspection.
  - (d) An establishment licensed under KRS Chapter 316 may request an inspection by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky, and shall pay a fee, as established in 201 KAR 15:030, for the inspection.
  - (e) If an establishment fails three (3) consecutive inspections within a period of six (6) months, any subsequent inspections required to determine if the failures have been cured shall require payment, as established in 201 KAR 15:030, for each subsequent inspection. In an instance of three (3) consecutive failures of inspections within six (6) months, the board may also, in its sole discretion, direct that the establishment in question cease operations for an appropriate period of time to permit the establishment to become compliant, and may assess a fine based upon the violations and failure to correct same.
  - (f) Inspection fees shall be invoiced by the board to the licensee, and shall not be due at the time of the inspection.

Section 6. Establishment Manager.

- (1) Each establishment shall have a Kentucky-licensed funeral director, a Kentucky-licensed embalmer, or an individual licensee as required by KRS 316.125(2)(b)(5) to manage and supervise the establishment.
- (2) The establishment shall notify the board of a change of the funeral director or the establishment manager by submitting the ~~Information and Name Change~~ Establishment Update Application signed by the licensed owner and the new establishment manager within five (5) working days of the change.
- (3) An establishment manager who leaves the employment of an establishment shall notify the board in writing within five (5) working days of the departure.

#### Section 7. 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 occurs 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 establishment manager for another establishment under KRS 316.125(4) may act as the temporary establishment manager for the establishment under this section for the limited ninety (90) day period.
  - (b) The temporary establishment manager 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 establishment manager for only one (1) establishment at a time.

#### Section 8. Opening of an Establishment.

- (1) An establishment shall not operate or be opened for business prior to passing an inspection by the state board inspector and 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;
  - (c) A picture of the establishment and signage;
  - (d) A picture of the establishment manager;
  - (e) If purchasing the establishment, a certified copy of the property deed or other document demonstrating the property transfer and applicant's ownership;
  - (f) If a corporation, the articles of incorporation;
  - (g) If a partnership, the partnership agreement;
  - (h) If a limited liability company, the LLC agreement; and
  - (i) If the property is not owned by the applicant, a commercial lease, certificate of occupancy, or other legal document that demonstrates that the applicant has possession and control of the premises sufficient to be responsible for the property being configured to meet the requirements of these regulations.

(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 9. ~~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 10. Advertising.

(1) A funeral establishment may engage in activity to advertise and promote its business.

(2) Promotional activity shall be available to the public and not intended to solicit the purchase of a funeral.

(3) A funeral establishment may sponsor and participate in community activities. Personal information provided by individuals attending community activities, educational activities, participating in raffles or other activities, shall not be used to contact them following the activity. A funeral establishment may respond to a question but shall not initiate contact regarding the purchase of a funeral. Any document or registration that has personal information included shall contain the following information: "The information provided shall not be used by XYZ FH to contact me regarding the purchase of a funeral. If you are contacted about the purchase of a funeral following an event sponsored by or in part by a funeral establishment, please contact the Kentucky State Board of Embalmers and Funeral Directors; 502-426-4589."

(4) Meal and learn sessions shall not be considered solicitation so long as the sponsoring license holder does not collect information from attendees (information not to be collected includes names, addresses, telephone numbers, or any other form of contact for direct communication). The attendees may reach out after the event to the sponsoring license holder, but the sponsoring license holder shall not contact attendees directly after the event.

#### Section 11. Closure of an Establishment.

(1) If an establishment is to be closed, for any reason, the establishment licensee shall notify the board that the establishment is to be closed, and whether the closure is permanent or for a specified period of time using the appropriate form and shall return the establishment license to the board office in the case of permanent closure within ten (10) days of closure.

(2) An establishment that is closing shall give notice of closure to the Office of the Attorney General together with a listing of any pre-need contracts that remain in effect for the closing establishment.

(3) The licensee for a closing establishment shall give written notice of closure to clients with whom the establishment has a pre-need contract, and shall include in that notice how the establishment intends to honor its contractual obligation.

#### Section 12. ~~Section 11.~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Establishment Application", 6/2024[9/2019];

- (b) "Information and Name Change Application", ~~6/2024~~[9/2019]; ~~and~~
- (c) "Establishment Renewal Application", ~~6/2024~~;~~[2017.]~~
- (d) "Notice of Manager/Owner Death", ~~6/2024~~; and
- (e) "Establishment Closure Form", ~~6/2024~~.

(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.

*KANETHA DORSEY, Executive Director*  
*JONATHAN RIDEOUT, Chairman*

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: August 15, 2024 at 12:05 p.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on, October 24, 2024 at 9:00 a.m. Eastern, at 9114 Leesgate Rd, Ste 4, Louisville, Kentucky. 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 was received by that date, the hearing may be cancelled. A transcript of the public 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 comments shall be accepted through October 31, 2024. 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:** Kanetha Dorsey, Executive Director, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email [kanetha.dorsey@ky.gov](mailto:kanetha.dorsey@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Kanetha Dorsey**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation sets out the types and requirements of establishments available for licensure and roles and responsibilities of the manager and staff within.

**(b) The necessity of this administrative regulation:**

KRS 316.125 outlines the application and requirements for licensed funeral service establishments. This administrative regulation sets and supports the roles of each type of establishment and the management of said establishment according to the KRS.

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

This regulation provides the type and use of place of work for the funeral director, embalmer, apprentice, and surface transporter. This regulation sets the standard for the place of embalming, viewing, and potential storing of dead human bodies.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This administrative regulation supports the statutes by being the place of employment for license holders, apprentices, and surface transporters as provided by the applicable statutes as each is restricted to working within a licensed funeral establishment. A member, stockholder, or officer of every funeral establishment business must be a funeral director and/or license holder. License diplomas are required to be displayed within the establishment. Establishment licenses are required and must be renewed every year in July.

**(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:**

Section 1(9) - This amendment allows an owner or manager to hire an at-need embalmer to support the needs and operation of the establishment. There is a need for embalmers at many funeral homes across the Commonwealth, however this is a strict, and necessary, prohibition on "trade embalming," this amendment allows for establishments to hire a Kentucky-licensed embalmer for temporary assistance to work at the establishment. Three of the major funeral director associations in the State polled their membership and each voting overwhelming to allow for this set-up as long as it was within the funeral home. Section 9. - Separates Advertising from Signage in the title. Section 10 - addition. The second amendment pertains to advertising and solicitation, previously advertising did not allow for support of community events or sponsoring lunch and learns; the amendment now allows for solicitation but seeks to keep the contact from being predatory. Section 11. (1) - The final amendment to this regulation provides information about how to close a funeral home.

**(b) The necessity of the amendment to this administrative regulation:**

Section 1(9) - The licensure base has communicated that establishments need to have access to more embalmers; at the same time some establishments are not able to afford full-time salaries and benefits. Three of the associations in Kentucky have

polled their membership and approved this amendment. This wording comes from the largest association. Section 9. and Section 10. The establishment owners have been requesting a way to meet potential new clients and have communicated that not being able to support various community teams and events are unfair and keeping them from contacting portions of their community. Advertising was separated from signage to add clarity. Section 11. The final amendment is necessary to provide guidance on the steps to close a funeral home and provide a timeframe to complete those steps.

**(c) How the amendment conforms to the content of the authorizing statutes:**

Section 1(9) This administrative amendment requires establishments to hire a Kentucky-licensed embalmer to provide the embalming services within the Kentucky-licensed establishment per KRS316.030(2). Section 9-10. This administrative amendment supports an establishments ability to advertise, sponsor, and educate the community while providing standards and expectations in reference to KRS 316.150(1(d)). This administrative amendment provides a procedure for closing a funeral establishment which will no longer operate according to KRS 316.125.

**(d) How the amendment will assist in the effective administration of the statutes:**

Each amendment provides a procedure and boundaries to operate within to support their applicable statutes.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

There are currently 510 funeral service establishments in Kentucky. 3000 License holders (funeral director and/or embalmer) 250 Apprentices 150 Surface Transport License Holders

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(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:**

Section 1(9) does not require the owner or manager to provide any information directly to the office. Embalmer Reports are required to be maintained by the establishment and must be signed by the embalmer; the inspector will review embalming reports during inspections. Section 9-10-will require the establishments to place a notice on all advertising to inform the reader of their right to contact the Board office their they have been contacted following an activity. Section 11- requires the manager or owner to complete a form of any closure and return their establishment license in the event of closure.

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

None of these amendments require a fee; hiring an embalmer or hosting a team or event will cost the establishment, however, that will be considered on their own terms.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

Establishments will have access to more embalmers. Establishments will be able to make contact with more citizens and potentially have more future clients and

educate the public on needs and considerations of death care. Decrease in confusion and potential legal issues regarding establishment closures.

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

**(a) Initially:**

No additional cost

**(b) On a continuing basis:**

No additional cost-there have already been legal costs when an establishment hosted lunch and learns; those costs may dramatically decrease or may shift to complaints against funeral homes that do not comply with the regulation.

**(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 necessary to implement the regulation and continue to pay for supplies and tools to provide for oversight.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

This regulation does increase fees for Establishments and renewals. This regulation does increase fees for apprenticeship.

**(9) TIERING: Is tiering applied?**

No

## FISCAL IMPACT STATEMENT

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

KRS 316.010, KRS 316.030, KRS 316.125, KRS 316.130, KRS 316.150, KRS 316.165, KRS 316.260, 16 C.F.R. 453.2

**(2) Identify the promulgating agency and any other affected state units, parts, or divisions:**

Kentucky Board of Embalmers and Funeral Directors.

**(a) Estimate the following for the first year:**

**Expenditures:**No additional expenditures are expected

**Revenues:**\$200 per year

**Cost Savings:**None anticipated

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

No anticipated changes in subsequent years that would affect expenditures, revenues, or cost savings.

**(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):**

Cities, counties, and fire departments are generally affected by this profession

**(a) Estimate the following for the first year:**

**Expenditures:**None anticipated

**Revenues:**None anticipated, although local entities may benefit from the change to this regulation which allows funeral establishments to support their local community in various ways, which may indirectly increase revenues for entities within that community.

**Cost Savings:**None anticipated.

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

As more funeral establishments become able to do so, they should be able to support the communities which may increase revenues for the local communities.

**(4) Identify additional regulated entities not listed in questions (2) or (3):**

None are known or anticipated

**(a) Estimate the following for the first year:**

**Expenditures:**None are known or anticipated

**Revenues:**None are known or anticipated

**Cost Savings:**None are known or anticipated

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

No answer provided.

**(5) Provide a narrative to explain the:**

**(a) Fiscal impact of this administrative regulation:**

This regulation provides for changes requested by the licensure base to allow establishments to support and educate the larger community. It also seeks to clarify processes such as closure and notification of the death of a manager or owner. This

regulation change seeks to help establishments make contact with more potential clients without allowing for predatory practices.

**(b) Methodology and resources used to determine the fiscal impact:**

The budget request report was used to determine fiscal impact as well as the necessity and function statement from the regulation and survey information reported by both the Funeral Directors Association of Kentucky and the Kentucky Association of Morticians.

**(6) Explain:**

**(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)**

This administrative regulation has low negative or adverse economic impact as the fee associated with the changes in this regulation are low.

**(b) The methodology and resources used to reach this conclusion:**

The budget request report, association surveys, and profession specific historic data were used to reach this conclusion.