

**TITLE 16. CEMETERY AND FUNERAL BUREAU
DEPARTMENT OF CONSUMER AFFAIRS**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

§ 1230, Training Apprentice

California Code of Regulations (CCR)

NOTICE IS HEREBY GIVEN that the Cemetery and Funeral Bureau (Bureau) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office no later than **Tuesday, May 14, 2024, by 5:00 p.m.**

PUBLIC HEARING AVAILABILITY

The Bureau has not scheduled a public hearing on this proposed action. The Bureau will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Bureau may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE:

Pursuant to the authority vested by Business and Professions Code (BPC) sections 7606, 7670, and to implement, interpret or make specific 7606, 7607, 7648, 7649, 7660 and 7670, Business and Professions Code, the Bureau is considering amending 1230 of Title 16 of the CCR as described in this Notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Cemetery and Funeral Bureau (Bureau) licenses, regulates, and investigates

complaints against 14 different license categories in California, totaling approximately 11,315 licensees. These licensing categories include funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery broker branch, cemetery broker additional, cemetery salespersons, cremated remains disposers, crematories, crematory managers, hydrolysis facilities, cemetery managers, and private, nonreligious cemeteries. It is the Bureau's duty to enforce and administer the Cemetery and Funeral Act (Chapter 12 (commencing with section 7600) of Division 3 of Business and Professions Code (BPC) (collectively the Act). (BPC section 7602, subdivision (a)(2).). The Bureau is authorized to establish necessary rules and regulations for the enforcement of the Act and the laws subject to its jurisdiction. (BPC section 7606.)

In 2017, the Legislature passed, and the Governor signed into law, Assembly Bill (AB) 1381 (Obernolte, Chapter 150, Statutes of 2017), amending BPC section 7670. This law authorizes a licensed funeral establishment who is seeking the Bureau's approval to train apprentice embalmers to show that they have either employed a full-time California embalmer, who has had not less than two years' practical experience as a California licensed embalmer immediately preceding the date of the application, or a trade embalmer who is hired by the establishment on a case-by-case-basis and who has had not less than two years' practical experience as a California licensed embalmer immediately preceding the date of the application. Also pursuant to BPC 7670(a), the apprenticeship must be served in a licensed funeral establishment that has been previously approved for apprenticeship training by the Bureau, and the apprentice must submit an application, accompanied by the required fee, to the Bureau. With the increase in cremations, which has led to a sharp decrease in embalming in California, it has become more difficult for funeral homes to employ a full-time embalmer. By allowing a trade embalmer, who has met certain requirements, to train apprentices, more apprentices should be able to get the supervision and training they need.

Existing law, BPC 7660 defines an apprentice embalmer as a person engaged in the study of embalming under the instruction and supervision of a licensed embalmer who has had at least two years of practical experience as a licensed embalmer.

There is no existing regulation that specifies the process and procedures for how a licensed funeral establishment may apply to the Bureau to seek approval to train apprentices. Additionally, pursuant to CCR section 1230, to qualify to be treated in aggregate, the funeral establishment is required to submit to the Bureau, form 21 A-12 (12/96). The form requires the funeral establishment to certify, among other things, that the funeral establishment will continue to have a full-time employed qualified embalmer. The Bureau form 21 A-12 (12/96) is outdated, and it needs to be updated by repealing and adopting a new Bureau approved form.

The Bureau has consulted with stakeholders (licensees, consumer advocates, and members of the public) on two separate occasions regarding the proposed regulation. This proposal was first discussed at the Bureau's Advisory Committee meeting on May 24,

2018, after AB 1381 was signed into law and became effective on January 1, 2018. Staff drafted language for this regulation and on May 24, 2023, presented the language for apprentice embalmers training to the committee members during the regularly scheduled meeting. The proposed language was discussed and made available for public comment. The Bureau received no comments from stakeholders. However, since the release of the draft language, the Bureau has made minor technical modifications to the proposed text to make it easier for the regulated public to follow.

The current version of 16 CCR section 1230, titled “Training Apprentices, “includes these two subdivisions:

- Subdivision (a) authorizes funeral establishments to be treated in the aggregate for the purpose of training apprentices and lists the requirements. The licensed funeral establishment must be under common ownership. The common owners must designate one funeral establishment as the main office as defined in CCR 16 1204(c)(2), and the remaining establishments be located within 60 miles radius from the designated main office.
- Subdivision (b) specifies the Bureau approved form 21A-12 (12/96) shall be submitted when a licensed funeral establishment is requesting to be treated in aggregate, and an inspection shall be scheduled and completed to ensure compliance with BPC 7670.

It is necessary to amend CCR 1230 to provide, in addition to the option to be treated in the aggregate, the process and procedures a licensed funeral establishment shall meet when requesting Bureau approval to train apprentice embalmers. Further, an update to repeal and adopt a new bureau approved form is also needed.

The Bureau proposes to rename the section, reorder the subdivisions to match the order presented in the controlling statute, and amend the process for who may train apprentice embalmers. Here is what the Bureau proposes to do:

- Amend CCR section 1230 by changing the title from “Training Apprentices” to “Approval to Train Apprentice Embalmers.”
- Amend subdivision (a) to establish the process and procedures a licensed funeral establishment who is seeking Bureau’s approval to train apprentice embalmers must follow. Require that the funeral establishment must submit a request on a Bureau approved form, 12-TAE (New 1/24) “Approval to Train Apprentice Embalmers.” The form is incorporated by reference and specifies the fee to accompany the form.
- Amend CCR section 1230(b) by moving the regulatory text to a newly adopted subdivision (c). Subdivision (b) text is added to specify that each licensed funeral

establishment who has received Bureau approval must submit to the Bureau, no later than January 15 of each year, a completed Bureau form 12-TAE (new 1/24) accompanied with the required fee specified by subdivision (a) of this section.

- Adopt CCR section 1230(c) to specify the requirements for a licensed funeral establishment requesting to be treated in the aggregate, for the purpose of training apprentice embalmers, to submit the approved Bureau form specified in subdivision (a) of this section. The licensed funeral establishment must be under common ownership. The common owners must designate one funeral establishment as the main office as defined in CCR 16 1204(c)(2), and the remaining establishments must be located within 60 miles from the designated main office.
- In the reordering, subdivision 1230(a)(3) to now 1230(c)(3) the word “radius” is deleted from the distance requirement making it consistent with other regulations addressing distance requirements under this Act, as well as making it consistent with industry standards.

Further, in order to make CCR 16 section 1230 consistent with the underlying statute, this proposal reorders subdivision (a) with the newly renumbered subdivision (c). Rather than starting CCR 16 section 1230 with the requirements for being treated in the aggregate, subdivision (a) will reference the form required in order for a funeral establishment to apply to train apprentices. This change will make the regulation easier to follow and give immediate notice to the regulated community of the required form.

ANTICIPATED BENEFITS OF PROPOSED REGULATIONS

This proposal would establish a consistent and simple process for licensed funeral establishments to obtain Bureau approval to train apprentice embalmers, and to be treated in the aggregate.

DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATION(S)

During the process of developing these regulations and amendments, the Bureau has conducted a search of any similar regulations of these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

The Application for Approval to Train Apprentice Embalmers, form “TAE-12 (New 1/24)

DISCLOSURES REGARDING PROPOSED ACTION:

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies:

The Bureau has determined the proposed regulation will result in a minor and absorbable fiscal impact to the state.

Cost or Savings in Federal Funding to the State:

The regulations result in one-time (absorbable) workload and costs of approximately \$750 to update and post the (new) Application for Approval to Train Apprentice Embalmers form (New 1/24) to the Bureau's website.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The Bureau has made an initial determination that the proposed regulatory action would not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because this proposal only affects licensed funeral establishments.

The Bureau currently is responsible for 1,089 licensed funeral establishments throughout California. Out of these funeral establishments, and as of July 1, 2023, there are 150 Bureau approved licensed funeral establishments that have requested and received Bureau approval to train apprentices and or to be treated in the aggregate.

Licensees are currently required to complete and submit the existing Application for Approval to Train Apprentice form and this proposal is not anticipated to increase workload or costs to businesses.

Business Reporting Requirement

The regulatory action does not require businesses to file a report with the Bureau.

Cost Impact on Representative Private Person or Business:

The Bureau does not anticipate additional costs to a representative private person or

business with the proposed action. Licensees are currently required to complete and submit the existing Application for Approval to Train Apprentice form and this proposal is not anticipated to increase workload or costs to individuals or businesses.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Bureau has determined the proposed regulations would not affect small businesses because this proposed regulation only applies to funeral establishments already licensed by the Bureau.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not create or eliminate jobs, will not create new businesses, or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California because this proposed regulation applies to licensed funeral establishments seeking the Bureau's approval to offer embalmer apprenticeship training.

Benefits of Regulation:

The regulations benefit licensees, stakeholders, and Californians by helping to reduce confusion and to provide clear guidance related to funeral establishments and apprenticeship by better aligning CFB's regulations with current law and existing business practice.

Effect on Small Business:

The Bureau has determined that the proposed regulation does not affect small businesses because this proposed regulation applies to licensed funeral establishments seeking the Bureau's approval to offer apprenticeship training.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau at 1625 North Market Blvd., Suite S-208, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below or by accessing the website listed below.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Bureau must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law. Interested persons are invited to present statements or arguments orally or in writing relevant to the above determinations at the above scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Carolina Sammons
Address: 1625 North Market Boulevard, Suite S-208
Sacramento, CA 95834
Telephone No.: (916) 574-7876
Fax No. (916) 928-7988
Email Address: carolina.sammons@dca.ca.gov

The backup contact person is:

Name: Gina Sanchez
Address: 1625 North Market Boulevard, Suite S-208
Sacramento, CA 95834
Telephone No.: (916) 574-7870
Fax No. (916) 928-7988
Email Address: gina.sanchez@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Carolina Sammons at (916) 574-7876.

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Bureau's website at https://www.cfb.ca.gov/laws_regs/proposed_regs.shtml