

**State of California
Office of Administrative Law**

In re:
Cemetery and Funeral Bureau

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections: 2326.01

Amend sections: 2326

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2024-0905-02

OAL Matter Type: Regular (S)

This rulemaking action by the Cemetery and Funeral Bureau amends regulations relating to the applications for and assignment of a crematory license.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2025.

Date: October 16, 2024



**Kevin D. Hull
Senior Attorney**

**For: Kenneth J. Pogue
Director**

**Original: Gina Sanchez, Bureau Chief
Copy: Carolina Sammons**

REGULAR

STD. 400 (REV. 10/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2024-0625-03	REGULATORY ACTION NUMBER 2024-0905-025	EMERGENCY NUMBER
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

OCT 16 2024

1:35 pm

[Signature]

For use by Office of Administrative Law (OAL) only

OFFICE OF ADMINISTRATIVE LAW

Electronic Submission

RECEIVED DATE 6/25/2023	PUBLICATION DATE 7/5/2024
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OFFICE OF ADMIN. LAW
2024 SEP 05 @ 4:59 pm

AGENCY WITH RULEMAKING AUTHORITY Cemetery and Funeral Bureau - Department of Consumer Affairs	AGENCY FILE NUMBER (If any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Crematory; Change in Ownership	TITLE(S) 16	FIRST SECTION AFFECTED 2326	2. REQUESTED PUBLICATION DATE July 5, 2024
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Carolina Sammons	TELEPHONE NUMBER (916) 574-7876	FAX NUMBER (Optional) (916) 928-7988
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER 2024, 27-2
			PUBLICATION DATE 7/5/24

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Crematory: Change in Ownership	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S): (Including title 26, if toxics related)	ADOPT 2326.01
	AMEND 2326
	REPEAL

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
16 4/16/24

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State \$100 Changes Without Regulatory Effect Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify) _____

7. CONTACT PERSON Carolina Sammons	TELEPHONE NUMBER 916 574-7876	FAX NUMBER (Optional) 916 574-7988	E-MAIL ADDRESS (Optional) carolina.sammons@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Kimberly Kirchmeyer</i>	DATE Aug 30, 2024
TYPED NAME AND TITLE OF SIGNATORY Kimberly Kirchmeyer, Director, Department of Consumer Affairs	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 16 2024

Office of Administrative Law

DEPARTMENT OF CONSUMER AFFAIRS

TITLE 16. CEMETERY AND FUNERAL BUREAU

PROPOSED REGULATORY LANGUAGE
Crematory License, Change in Ownership

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
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1. Amend Sections 2326 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326. Applications for Cemetery Certificate of Authority ~~and Crematory License~~

(a) Certificate of Authority. Applications for a certificate of authority to operate a cemetery shall be filed on bureau form 23-COA (rev. 01/23), Application for Certificate of Authority, which is hereby incorporated by reference, at the principal office of the bureau. In addition to the payment of the fees required by section 2311 of these rules, each application shall be accompanied by the following:

(1) A copy of:

(A) Articles of Incorporation, if a corporation, or Articles of Organization, if a limited liability company, certified by the Secretary of State.

(B) Statement of Information for the corporation or organization filed with the Secretary of State.

(C) Permit to sell and issue securities. If not applicable, submit a statement certifying that securities will not be sold or issued.

(D) Land use or zoning permit certified by the city or county for cemetery use.

(E) Declaration of dedication to cemetery purposes certified by the county recorder.

(F) Deed to the property certified by the county recorder, contract of purchase or any other instrument which provides the applicant with merchantable title thereto.

(G) Endowment care trust agreement executed by the board of directors or limited liability company members of the cemetery authority.

(2) A statement signed by a majority and verified by one of the directors or limited liability company members of the applicant, which statement shall set forth:

(A) Names and addresses of all the incorporators or organizers, directors, corporate officers or limited liability company members, and trustees of the endowment care fund, including the person who will be in charge of sales, together with a statement of their experience and fitness to engage in cemetery business.

(B) Statement of compensation received or to be received by the corporate officers or limited liability company members, directors and all sales agents and/or cemetery managers.

(C) A complete and detailed financial statement showing assets, liabilities and reserve.

1. If the applicant is a new corporation, the statement shall designate the amount of stock subscribed, the consideration paid for all stock issued and the amount of promotional stock involved.

2. If the applicant has engaged in business for a period of time, the statements shall include complete operating profit and loss statements for the preceding three (3) years or such period of time as the applicant has been in business if less than three years.

(D) Itemized statement of estimated receipts (from all sources, capitalization, sales, loans, etc.) and expenditures of the applicant for at least five (5) years or such other period as the bureau may require by written notice to the applicant.

(E) A statement setting forth the size, location and topography of, and water available for, the property to be used for cemetery purposes.

(F) A statement of the applicant's proposed plan of operation which shall include type of selling, approximate size of sales department, number of acres initially developed, etc.

(G) Statement of the amount deposited to the endowment care fund, type of investment made or to be made and the proposed rate of contribution for the future.

(3) An independent confirmation from the depository or other such proof of deposit of the initial contribution to the endowment care fund as required by section 8738.1 of the Health and Safety Code of the State of California.

(4) A good and substantial map of the proposed cemetery site (scale not less than one inch (1") to five hundred feet (500')) and surrounding area showing highways,

access roads, etc., and area to be initially developed delineated thereon. The map should not be submitted with the application. Maps shall be maintained by the cemetery and made available during inspections or upon request by the bureau.

(5) Such other matters as the bureau may require by written notice to the applicant.

(b) In addition to complying with the provisions listed above (all apply, except (a)(2)(C)(1)), a limited liability company applying for a certificate of authority must also include the following:

(1) A completed bureau form 23-LE (1/16), Bureau Licensed Employee, which is hereby incorporated by reference, for each employee issued a license by the bureau.

(2) Comply with one, or a combination, of the following:

(A) Maintain a policy or policies of insurance of not less than one million dollars (\$1,000,000) for up to five licensed employees plus an additional one hundred thousand dollars (\$100,000) for each licensed employee over five, not to exceed five million dollars (\$5,000,000) accompanied by bureau form 23-INS (1/16), Certification of Insurance Coverage, which is hereby incorporated by reference.

(B) Maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security of not less than one million dollars (\$1,000,000) for up to five licensed employees plus an additional one hundred thousand dollars (\$100,000) for each licensed employee over five, not to exceed five million dollars (\$5,000,000) accompanied by bureau form 23-INS (1/16), Certification of Insurance Coverage, which is hereby incorporated by reference.

(C) Unless the limited liability company has satisfied the provisions of (b)(2)(D) of this section, each member of a limited liability company automatically guarantees payment of the difference between the maximum amount of security required for the limited liability company, up to five million dollars (\$5,000,000), and the security otherwise provided in accordance with (b)(2)(A) and (b)(2)(B) of this section provided that the aggregate amount paid by all members under these guarantees shall not exceed the difference.

(D) Confirm a net worth equal to or exceeding ten million dollars (\$10,000,000) as of the most recently completed fiscal year accompanied by bureau form 23-NW (1/16), Certification of Net Worth, which is hereby incorporated by reference.

(3) Names and addresses of all limited liability company members accompanied by bureau form 16-CA (rev. 1/21), Certification Affidavit, which is hereby incorporated by reference, for each member.

(4) Operating Agreement; if a corporation is a member of the limited liability company, the Articles of Incorporation must be submitted.

~~(c) Crematory License Application. Application for a crematory license shall be filed on the form furnished by the bureau at the principal office of the bureau. In addition to the payment of the fees required by section 2311 of these rules, each application shall be accompanied by the following:~~

~~(1) A certified copy of:~~

~~(A) Articles of Incorporation, if applicant is a corporation.~~

~~(B) Partnership agreement, if applicant is a partnership.~~

~~(C) Land use or zoning permit.~~

~~(D) Permit to operate a crematory issued by the local air pollution control district.~~

~~(E) Deed, lease or other instrument which provides the applicant with the right to possess and use the property where the business will be located.~~

~~(2) A statement signed by the applicant if the applicant is an individual; signed by the majority and verified by one (1) of the directors, if the applicant is a corporation; or signed and verified by a majority of the partners, if applicant is a partnership, which statement shall set forth:~~

~~(A) A complete and detailed financial statement showing assets, liabilities, and reserves.~~

~~(B) A statement of proposed plan of operation which shall include the type of selling.~~

~~(C) A full, true, and complete copy of the standard agreement which will be used for funding of prearranged cremations.~~

~~(3) Plans and specifications of the crematory and building, which must be sufficient to allow the bureau to determine, among other things:~~

~~(A) Fire resistant character.~~

~~(B) Adequacy of storage for cremated and uncremated remains.~~

~~(4) Such other matters as the bureau may require by written notice to the applicant.~~

Note: Authority cited: Sections 135.4, and 7606, ~~and 7712.5~~, Business and Professions Code. Reference: Sections 135.4, 7613.4, 7613.5, 7652.8, 7652.10, and 7653, ~~7712.2, 7712.4 and 7712.5~~, Business and Professions Code; and Section 8738.1, Health and Safety Code.

Adopt Sections 2326.01 of Division 23 of Title 16 of the California Code of Regulations

§ 2326.01. Application for Initial Crematory License, or Assignment of an Existing Crematory License

(a) Applying for an initial crematory or an assignment of existing crematory license, shall be submitted on Bureau form 23-CR (New 1/24), Application for Initial Crematory License or Assignment of an Existing Crematory License, which is hereby incorporated by reference. The form shall be accompanied by the filing fee of \$750. Each application shall be accompanied by the following:

(1) Articles of Incorporation, if applicant is a corporation.

(2) Partnership agreement, if applicant is a partnership.

(3) Land use or zoning permit.

(4) Permit to operate a crematory issued by the local air pollution control district.

(5) Deed, lease or other instrument which provides the applicant with the right to possess and use the property where the business will be located.

(6) A statement signed by the applicant if the applicant is an individual; signed by the majority and verified by one (1) of the officers, if the applicant is a corporation; or signed and verified by a majority of the partners, if applicant is a partnership, which statement shall set forth:

(A) A complete and detailed financial statement showing assets, liabilities, and reserves.

(B) A statement of proposed plan of operation which shall include the type of selling.

(C) A full, true, and complete copy of the standard agreement which will be used for funding of prearranged cremations.

(D) Plans and specifications of the crematory and building, which must be sufficient to allow the Bureau to determine, among other things:

(i.) Fire resistant character.

(ii.) Amount of storage for cremated and uncremated remains.

(b) In addition to the requirements in subdivision (a) of this section, the new owner requesting an assignment of an existing crematory license shall submit to the Bureau pursuant to Business and Professions Code section 7712.1 the following:

(1) The application to the Bureau at least 30 days before the change of ownership occurs. The assignment of an existing crematory license shall occur once the Bureau has approved the application.

(2) Copy of the final, dated and signed, sales agreement shall be submitted to the Bureau within 10-days of the final sale.

(3) Within 60 days from the date of the sales agreement the new owner must submit to the Bureau the local air pollution required permit to operate the crematory, the applicant shall file proof of the permit issued.

Note: Authority cited: Sections 7606, 7712.1, and 7712.5, Business and Professions Code. Reference: Sections 7712.1, 7712.2, 7712.4, 7712.5, 7712.9, Business and Professions Code.



CEMETERY AND FUNERAL BUREAU
 1625 N. Market Blvd., Suite S-208, Sacramento, CA 95834
 (916) 574-7870 | emailcfb@dca.ca.gov | www.cfb.ca.gov

CREMATORY LICENSE APPLICATION - FEE \$750

Check Applicable Box

Initial/New Crematory License

Assignment of an Existing Crematory License (change of ownership)

*Must be submitted to the Bureau at least 30-days prior to change of ownership occurring. *

Post Assignment Licensure Requirements pursuant to Business and Professions Code section 7712.1.

1. The new owner shall submit a copy of the final sales agreement to the Bureau within 10-days of the final sale and after Bureau approval of assignment.
2. The new owner shall submit to the Bureau within 60-days of the final sale, proof of the issuance of the local air pollution permit.

This application must be signed and accompanied with the required documents as outlined in 16 CCR 2326.01 and mailed to the Bureau at the address above.

[NOTICE ON COLLECTION OF PERSONAL INFORMATION \(Rev. 9/2023\)](#)

CR NUMBER ISSUED

SECTION A: CREMATORY INFORMATION			
Name of Crematory		Existing Crematory (CR) License Number (For assignment only)	
Address of Crematory	City	State CA	Zip Code
Mailing Address of Crematory (If different from above)	City	State	Zip Code
Phone Number	Fax Number	Email Address (Optional)	
FEIN Number	Date of Sale (If applicable)		
SECTION B: NAME OF PERSON FILING THE APPLICATION (If corporation, submit copy of a resolution delegating authority to applicant to submit the application.)			
Last Name	First Name	Phone Number	
SECTION C: NAME OF DESIGNATED CREMATORY MANAGER (CRM)			
Last Name	First Name	License Number CRM	Expiration Date
SECTION D: APPROVAL TO SHARE CREMATORY MANAGER (If applicable, must be under common ownership and within 60 miles of the main office)			
Name of Crematory Designated as Main Office	License No. CR	Miles From New Crematory	

SECTION E: OWNERSHIP

If owner is an **INDIVIDUAL**, complete the following:

Last Name	First Name	Middle Initial
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If owner is a **PARTNERSHIP**, list ALL partners and percentage owed: (Attach additional pages if needed)

Last Name	First Name	Middle Initial	% Owned

If owner is a **CORPORATION**, complete the following:

Name and address of Corporation (Exact name and address as shown on Articles of Incorporation)

Incorporated in State of	Date incorporated
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CORPORATE OFFICERS – List top 4 senior officers of the corporation.

Title	Last Name	First Name	Middle Initial
President			
Vice President			
Treasurer			
Secretary			

SECTION F: APPLICANT CERTIFICATION

I certify under penalty of perjury under the laws of the State of California that all statements furnished in connection with this application are true and accurate.

Signature	Title	Date
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FOR BUREAU USE ONLY

Date Cashiered:	Amount Cashiered	ATS Number	Receipt No.	Completed On	Approved Date	Denied Date
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POST LICENSURE REQUIREMENTS FOR CHANGE IN OWNERSHIP TO ASSIGN AN EXISTING CREMATORY LICENSE

Date of final sale agreement (change of ownership):	Date the local air pollution issued the required permit to operate the crematory:
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Date reported to the Bureau:	Date reported to the Bureau:
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List CR Numbers of Additional Crematories Managed	CR License No.	CR License No.	CR License No.
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NOTICE ON COLLECTION OF PERSONAL INFORMATION

Collection and Use of Personal Information

The Cemetery and Funeral Bureau (Bureau) of the Department of Consumer Affairs (DCA) collects the personal information requested on this form as authorized by Business and Professions Code (BPC) sections 30, 114.5, 115.4, 115.5, 144, 144.5, 480, 7600 and the following, and the Information Practices Act (Civil Code section 1798 and the following). The Bureau uses this information, in accordance with DCA's Privacy Policy, principally to identify and evaluate applicants for licensure, to issue and renew licenses, to enforce licensing and reporting standards set by law and regulation.

Mandatory Submission

Submission of the requested information is mandatory. The Bureau cannot consider your application for licensure or renewal unless you provide all the requested information.

Access to Personal Information

You may review the records maintained by the Bureau that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information

The Bureau makes every effort to protect the personal information you provide. The information you provide, however, may be disclosed in the following circumstances:

- In response to a Public Records Act request (Government Code section 7920.000 et seq.), as allowed by the Information Practices Act.
- Disclosure to another government agency as required by state or federal law.
- In response to a court or administrative order, a subpoena, or a search warrant.

Contact Information

For questions about this notice or access to your records, contact the Custodian of Records, Cemetery and Funeral Bureau at 1625 North Market Boulevard, Suite S-208, Sacramento, CA 95834, by phone at (916) 574-7870, or by e-mail at emailcfb@dca.ca.gov. For questions about the DCA's Privacy Policy, contact the Department of Consumer Affairs at 1625 North Market Boulevard, Sacramento, CA 95834, by phone at (800) 952-5210, or by e-mail at dca@dca.ca.gov.

(Rev. 9/2023)