

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

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

§ 2326.6. Approval to Share a Crematory Manager

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 by **5:00 p.m., Tuesday, October 25, 2022**.

PUBLIC HEARING

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, and 7713, and to implement, interpret, or make specific BPC sections 7606 and 7713, the Bureau is considering adopting section 2326.6 of Division 23 of the Title 16 of the CCR, as described in this Notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The death care industry transacts business with consumers at a time when they are emotionally vulnerable. Protection of the public is mandated to be the highest priority for the Bureau in exercising its licensing, regulatory, and disciplinary functions. The Bureau achieves its goal of consumer protection through the following primary methods: issuing and renewing licenses; overseeing funeral and cemetery trust funds; investigating complaints; conducting inspections; and disciplining licensees for violations of its laws and regulations.

The Bureau licenses, regulates, and investigates complaints against 14 different licensure categories in California, totaling approximately 13,100 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 the Business and Professions Code (BPC)) (Act). (Bus. & Prof. Code, § 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. (Bus. & Prof. Code, § 7606.)

Senate Bill (SB) 800 (Committee on Professions, Business Professions and Economic Development, Chapter 573, Statutes of 2017), amended BPC section 7713(a) to authorize "licensed crematories within close geographical proximity of each other to request the Bureau to allow a licensed crematory manager to manage, supervise, and direct the business or profession of more than one facility." To implement this statutory change, the Bureau needs to adopt a regulation.

There are no existing regulations that specify the processes and procedures for how a licensed crematory may apply to the Bureau to share a licensed crematory manager to manage, supervise, and direct the business or profession of more than one facility.

This proposal would establish such a regulation.

The Bureau has drafted proposed text to specify the requirements for applying for and receiving approval from the Bureau to share a designated crematory manager to manage, supervise, and direct the business or profession of more than one facility. The Bureau has consulted with stakeholders (licensees, consumer advocates, and members of the public) regarding the proposed sharing of crematory manager regulations. At the Bureau's Advisory Committee meeting held on May 24, 2018, the draft language for sharing a crematory manager was discussed and made available for public comment. The Bureau received no comments from stakeholders. However,

since 2018, the Bureau has made certain modifications to the proposed text to enhance clarity.

The Bureau therefore proposes to:

- **Adopt Section 2326.6, Approval to Share a Crematory Manager**

The Bureau proposes to adopt a regulation to allow licensed crematories, upon approval by the Bureau, to designate a licensed crematory manager to manage more than one licensed crematory and to set forth the conditions under which the bureau will grant approval.

ANTICIPATED BENEFITS OF PROPOSED REGULATIONS

This proposal would establish a consistent and simple process for licensed crematories to obtain Bureau approval to share a designated crematory manager to supervise and manage more than one facility. It also provides licensed crematories an opportunity to be more efficient and save money by making the business decision to share a designated crematory manager to manage more than one of its facilities.

DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATION(S)

During the process of developing these regulations, 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

Request for Approval to Share Crematory Manager, form 23-SCRM (New 4/22)

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 not have a fiscal impact to the state.

Cost or Savings in Federal Funding to the State:

Under current law and existing business practice, crematories may submit a request and be granted permission to share a manager, as specified. As a result, there is no

fiscal impact to the state.

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 regulation 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 crematories in California.

The Bureau currently is responsible for 230 licensed crematories throughout California. The change in the number of crematories licensed by the Bureau has been negligible over the period from fiscal years 2018-19 through 2020-21. While the law has been in effect for the past three years, the number of licensed crematory managers has increased by less than one percent from fiscal years 2018-19 through 2020-21. Opting to seek Bureau approval is a voluntary business decision made by the licensed crematory and therefore any business impact is a result of this choice and not the regulations.

Cost Impact on Representative Private Person or Business:

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory action will not create or eliminate jobs, will not create new business 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 crematories seeking the Bureau's approval to designate its licensed crematory manager to manage more than one licensed crematory. There is no cost for the crematory to apply and it provides the

licensed crematory the flexibility to make a business decision to be more efficient and save money by sharing a designated crematory manager to manage more than one of its facilities.

Benefits of Regulation:

- There are no anticipated benefits to the health and welfare of California residents because the implementation of the regulatory package allowing a crematory to share a crematory manager has no impact on the health, welfare, and safety of California residents.
- There are no anticipated benefits to worker safety because this regulatory package allowing a crematory to share a crematory manager has no impact on worker safety.
- There are no anticipated benefits to the state's environment because this regulatory package allowing a crematory to share a crematory manager has no impact on the state's environment.

Effect on Small Business

The Bureau has determined that the proposed regulation does not affect small businesses because this proposed regulation applies to licensed crematories seeking the Bureau's approval to designate its licensed crematory manager to manage more than one licensed crematory. There is no cost for the crematory to apply and it provides the licensed crematory the flexibility to make a business decision to be more efficient and save money by sharing a designated crematory manager to manage more than one of its facilities

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 CFB 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 which 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) 574-8203
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.

Website access: Materials regarding this proposal can be found at https://www.cfb.ca.gov/laws_regs/proposed_regs.shtml