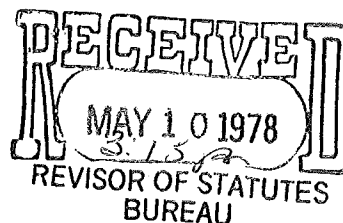


FDE 1 to 4

CERTIFICATE



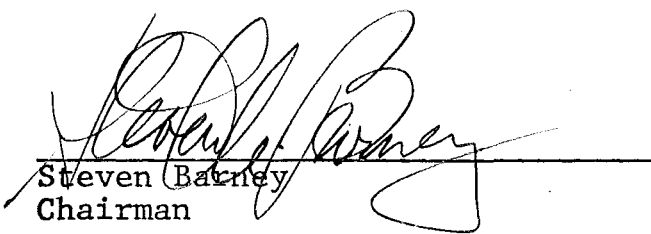
STATE OF WISCONSIN)  
                                  ) SS  
DEPARTMENT OF  
REGULATION & LICENSING)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Steven Barney, Chairman of the Funeral Directors and Embalmers Examining Board, and custodian of the official records of said board, do hereby certify that the annexed rules and regulations, relating to funeral directing and embalming, were duly approved and adopted by this board on November 16, 1977.

I further certify that said copy has been compared by me with the original on file in this board and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue in the city of Madison, this 10th day of May, 1978.

  
\_\_\_\_\_  
Steven Barney  
Chairman



Sarah Dean  
Secretary

FUNERAL DIRECTORS & EMBALMERS  
EXAMINING BOARD  
1400 EAST WASHINGTON AVENUE  
MADISON, WISCONSIN 53702  
(608) 266-1574  
(Enter at 77 North Dickinson Street)

ORDER ADOPTING RULES

ORDER OF THE FUNERAL DIRECTORS  
AND EMBALMERS EXAMINING BOARD

ADOPTING, AMENDING OR REPEALING RULES

Pursuant to authority vested in the Funeral Directors and Embalmers Examining Board by ss. 227.014(2)(a), 15.08(5) and 156.03(2)(a), Wis. Stats., the board hereby repeals, and adopts rules as follows:

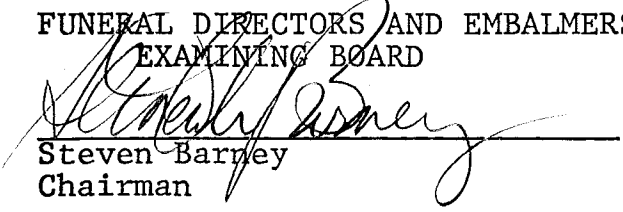
Chapter H 16 of the WISCONSIN ADMINISTRATIVE CODE is repealed.

Chapters FDE 1, 2, 3 and 4 are adopted to read: (see attached copy).

The rules and repeals contained herein shall take effect on July 1, 1978 as provided in s. 227.026, Wis. Stats.

Dated: May 10, 1978

FUNERAL DIRECTORS AND EMBALMERS  
EXAMINING BOARD

  
\_\_\_\_\_  
Steven Barney  
Chairman



*Sarah Dean*  
*Secretary*

FUNERAL DIRECTORS & EMBALMERS  
EXAMINING BOARD

1400 EAST WASHINGTON AVENUE  
MADISON, WISCONSIN 53702  
(608) 266-2837  
(enter at 77 North Dickinson Street)

AN ACT by the Funeral Directors and Embalmers Examining Board to create Chapters FDE 1 through FDE 4 of the Wisconsin Administrative Code, relating to procedures and practices; funeral directors and embalmers and funeral directors and embalmers apprentices; unprofessional conduct; access to public records.

## FUNERAL DIRECTORS & EMBALMERS EXAMINING BOARD

### PROPOSED RULES SUMMARY

Pursuant to s. 15.08(5), Wis. Stats., and Chapter 156, Wis. Stats., the Funeral Directors & Embalmers Examining Board intends to create Chapters FDE 1 through FDE 4 of the Wisconsin Administrative Code. Chapter 39, Laws of 1975, created the board and transferred the Funeral Directors & Embalmers section in the Department of Health and Social Services to the Department of Regulation and Licensing. The board was charged with the enforcement of rules promulgated by the Department of Health and Social Services until the board's rules were duly promulgated.

The proposed rules in Chapter FDE 1 establishes the board's procedures and practices relating to alleged violations and are intended to comply with statutory requirements governing administrative procedures set forth in Chapter 227, Wis. Stats. The Attorney General's office and the Department of Regulation and Licensing advised the board in the preparation of this chapter. Also, field terminology is herein defined.

Proposed Chapter FDE 2 is a reorganization of Chapter H 16, relating to funeral directors and embalmers licensure requirements for applicants, including apprentices. Although the substance of the chapter remains essentially the same, the language has been modernized and the chapter arranged more logically. For these reasons, the changes are not noted in bill form. A cross-referenced index is attached to clarify the board's revision.

Chapters FDE 3 and FDE 4, entitled respectively, "Unprofessional Conduct" and "Access to Public Records" are proposed at the request of the Joint Committee for Review of Administrative Rules and by the authority of s. 156.13(1), Wis. Stats.

The public was invited to give testimony on the proposed rules at a hearing held on June 2, 1977.

# FUNERAL DIRECTORS & EMBALMERS EXAMINING BOARD

## Chapter FDE 1

### PROCEDURES AND PRACTICES

FDE 1.01	Authorization	FDE 1.08	Answer
FDE 1.02	Scope	FDE 1.09	Hearings, general
FDE 1.03	Definitions	FDE 1.10	Prehearing conference
FDE 1.04	Institution of proceedings	FDE 1.11	Settlements
FDE 1.05	Complaint	FDE 1.12	Deposition to preserve evidence
FDE 1.06	Filing	FDE 1.13	Conduct of hearing
FDE 1.07	Service of complaint and notice of hearing	FDE 1.14	Witness fees and costs

FDE 1.01 Authorization. The following rules are adopted by the board pursuant to sections 15.08 (5) and 801.11, Wis. Stats., and chapter 156, Wis. Stats.

FDE 1.02 Scope. The rules in this chapter govern the procedure of the Funeral Directors and Embalmers Examining Board relating to alleged violation of chapter 156, Wis. Stats., and rules promulgated thereunder.

FDE 1.03 Definitions. For the purposes of these rules:

- (1) "Board" means the Funeral Directors and Embalmers Examining Board.
- (2) "Licensee" means a person who holds any license issued by the board.
- (3) "Person prosecuting the complaint" means the attorney or agent of the board represents evidence supporting the charges in the complaint against the respondent.
- (4) "Respondent" means the licensee served with a complaint under these rules.

FDE 1.04 Institution of proceedings. Proceedings to revoke or to suspend a license or to reprimand a licensee may be commenced by complaint of the board either on its own motion or upon written and verified statement of facts by an individual.

FDE 1.05 Complaint. The board's complaint shall contain:

- (1) The name and address of any person complained against;
- (2) A plain and concise statement of the facts constituting the alleged violation. If the alleged violation of the statute or administrative rule is a continuing one, its general nature and the approximate time covered shall be stated in the complaint; but if one or more specific incidents are relied on,

## Procedures and Practices

### Page 2

each shall be alleged with such particularity as to time, place and circumstance, as may be necessary to advise the respondent of each violation involved. The offense may be alleged in the language of the statute or rule claimed to have been violated, and shall conclude: "contrary to sec. \_\_\_\_\_ of the Statutes," or "contrary to \_\_\_\_\_ Wis. Adm. Code," or both. Separate charges shall be stated in separate paragraphs and shall be numbered consecutively.

(3) A demand in essentially the following form: "Wherefore, the Funeral Directors and Embalmers Examining Board demands that not less than 20 days before the date set for hearing on this complaint, the respondent file an answer to the charges alleged herein in respect to whether the license of respondent should be revoked or suspended, or whether respondent should be reprimanded."

FDE 1.06 Filings. All communications and papers to be filed shall be directed to the board at its office.

FDE 1.07 Service of complaint and notice of hearing. The complaint and notice of hearing may be served as prescribed in section 26.06, Wis. Stats., or may be served by certified mail addressed to the respondent at his last address furnished to the board. Service of the complaint and notice of hearing by mail is complete upon mailing. Service may be proved by affidavit.

FDE 1.08 Answer. The answer to a complaint shall be verified by the respondent and shall include a specific denial of each material allegation of the charges controverted by the respondent or a statement of any new material constituting a defense or mitigating the offense or matter charged, or any other defense which the respondent wishes to have considered. Every material allegation of the charges not controverted in the answer shall be taken as true, but new matter in the answer shall be deemed controverted without any reply. The answer shall be filed with the board within 20 days after service of the complaint. The board may mail a copy of the answer to any person who filed a verified statement of charges.

FDE 1.09 Hearings, general. All hearings shall be held at a time and place to be designated by the board in its notice of hearing. All hearings held by the board or its agent shall be open to the public, unless otherwise provided by law.

## Procedures and Practices

Page 3

FDE 1.10 Prehearing conference. In any matter pending before the board where a hearing examiner or board member has been designated to hear the matter, the hearing examiner or board member may direct the person prosecuting the complaint and the respondent, or the respondent's attorney, to appear before the designee to consider the simplification of the issues, the necessity or desirability of amendments to the pleadings, the obtaining of admissions of fact or documents which will avoid unnecessary proof and such other matters as may aid in the disposition of the matter to appear before the designee.

FDE 1.11 Settlements. Any stipulation or settlement agreement between the person prosecuting the complaint and the respondent, relating to settlement or disposition of a complaint shall not be effective or binding in any respect except upon approval of the board.

FDE 1.12 Deposition to preserve evidence. Deposition to preserve evidence from a witness may be taken under guidelines of section 227.08 (7), Wis. Stats.

FDE 1.13 Conduct of hearing. (1) Presiding officer. The hearing shall be presided over by either a member of the board, or a hearing examiner designated by the board.

(2) Record. All proceedings at hearing shall be taken in shorthand and transcribed and the transcript, thereof, together with all exhibits, shall be a part of the official records of such hearing.

(3) Evidence. The person prosecuting the complaint and the respondent shall appear at the hearing in person and may be represented by counsel and may call, examine, and cross-examine evidence. The provisions of section 227.08, Wis. Stats., shall be applicable to evidence presented by board hearing. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

(4) Briefs. The presiding officer at the hearing may provide for the service and filing of briefs.

(5) Motions. All motions, except those made at hearing, shall be filed in writing with the board and a copy served upon the person prosecuting the complaint or the respondent.

Procedures and Practices

Page 4

(6) Continuance. The presiding officer may grant continuances and adjournments.

(7) Subpoenas. Subpoenas for the attendance of any witness at a hearing shall be issued as provided in section 885.01, Wis. Stats., and shall be furnished by the board on request. Subpoenas shall be served and fees paid as provided in sections 885.05 and 885.06, Wis. Stats.

FDE 1.14 Witness fees and costs. (1) Witnesses. Witnesses subpoenaed at the instance of the respondent shall not be entitled to compensation from the state for attendance or travel.

(2) Depositions to preserve evidence. Depositions taken by the respondent to preserve evidence shall be paid for by the respondent. If such deposition is received in evidence, the board may in its discretion apportion the cost of such deposition between the respondent and the board. The cost of any deposition taken by the person prosecuting the complaint shall be paid by the board. Any person desiring a copy of the deposition shall pay the cost of the copy.



FUNERAL DIRECTORS & EMBALMERS EXAMINING BOARD

Chapter FDE 2

FUNERAL DIRECTORS AND EMBALMERS AND FUNERAL  
DIRECTORS' AND EMBALMERS' APPRENTICES

FDE 2.01	Examination applications	FDE 2.11	Operation of funeral establishment
FDE 2.02	Examination grade	FDE 2.12	Commissions prohibited
FDE 2.03	Two years of academic college	FDE 2.13	Discharge of apprentice
FDE 2.04	Mortuary school	FDE 2.14	Reciprocity
FDE 2.05	Proof of academic training	FDE 2.15	Business practices
FDE 2.06	Discrimination	FDE 2.16	Business telephone listings and advertising
FDE 2.07	Preparation rooms	FDE 2.17	Radioactive materials
FDE 2.08	Preparation room construction		
FDE 2.09	Protective clothing		
FDE 2.10	Permits		

FDE 2.01 Examination applications. Applications for taking the examination for funeral director or embalmer must be on file at least 30 days before the date of the examination. The board may accept applications after the 30-day limit if the circumstances warrant such procedure.

FDE 2.02 Examination grade. Successful applicants must receive a general average of not less than 75%.

FDE 2.03 Two years of academic college. The following or courses equivalent to shall be accepted by the board as proof of two years of academic instruction as stated in section 156.045 (1) (d), Wis. Stats. At least the number of semester credit hours shown below in the following areas:

	Minium Semester Credit Hours
1. English & Speech	6
2. Social Sciences such as:	12
a. Psychology	
b. History	
c. Sociology	
d. Political Science	
e. Economics	
f. Etc.	

Funeral Directors and Embalmers and Funeral  
Directors' and Embalmers' Apprentices

Page 2

3.	Natural Sciences such as:	15
	a. Anatomy	
	b. Physiology	
	c. Chemistry	
	d. Microbiology	
	e. Biology	
	f. Bacteriology	
	g. Etc.	
4.	Business	8
5.	Mathematics	5
6.	Electives	14
	TOTAL -	<u>60</u>

FDE 2.04 Mortuary school. The following shall be accepted as compliance with section 156.045 (1) (e), Wis. Stats. The candidate shall have satisfactorily completed 9 months or more instruction in a prescribed curriculum in funeral service education offered by an educational institution accredited by the American Board of Funeral Service Education or otherwise deemed to be equivalent by the Funeral Directors and Embalmers Examining Board.

FDE 2.05 Proof of academic training. (1) The following shall be accepted by the board as proof that the academic training requirements of section 156.095 (1) (a), Wis. Stats., concerning registration as an apprentice funeral director or embalmer have been met: A signed statement by the registrar of any college or university recognized by the North Central Association of Colleges and Secondary Schools that the applicant has successfully completed one academic year of instruction in the college or university or has an equivalent education which will permit admission to the college or university with sophomore status.

(2) The following shall be accepted by the board as proof that the academic training requirements of section 156.045 (1) (d), Wis. Stats., concerning requirements for a funeral director's or an embalmer's license have been met: A signed statement by the registrar of any college or university recognized by the North Central Association of Colleges and Secondary Schools that the applicant has successfully completed two academic years of instruction in the college or university or has an equivalent education which will permit admission to the college or university with junior status.

Funeral Directors and Embalmers and Funeral  
Directors' and Embalmers' Apprentices

Page 3

FDE 2.06 Discrimination. No funeral director or embalmer licensed in Wisconsin, or apprentice funeral director or apprentice embalmer holding a certificate of apprenticeship in this state, or person holding a funeral establishment permit herein, shall deny his services or the use of his establishment to any person because of race, color, creed, national origin or ancestry; provided, however, that this rule shall not apply to any funeral establishment, or to any services rendered therein, or in connection therewith, where such funeral establishment is, for religious reasons, so operated that its services are provided to members of only one religious faith.

FDE 2.07 Preparation rooms. All preparation rooms in funeral establishments must be equipped with adequate sanitary facilities so that no health hazards are produced as a result of embalming operations performed therein except that in cities or incorporated villages having systems of waterworks and sewerage in which the funeral establishment is located adjacent to a sewer and water main or in a block through which the systems extend, the preparation rooms in the establishments shall be provided with running water which have their drainage system connected with the public sewer. All preparation rooms shall be equipped with a ventilating system capable of expelling gases or fumes to the outside at a point so as not to create a nuisance, and shall also be equipped with a hard surfaced, metal or porcelain top embalming table, a set of essential embalming instruments and a supply of disinfectants. All preparation rooms, equipment, instruments and supplies in funeral establishments must be maintained in a clean and sanitary condition.

FDE 2.08 Preparation room construction. Every installation used for embalming operations must contain a floor area of not less than 100 square feet per embalming table and must be used solely for this purpose. It must be isolated by walls or adequate partitions. The walls and furniture must be constructed of easily washable material. The installation must be equipped with hot and cold running water supply under pressure and in a quantity sufficient for the operations performed therein as well as for cleaning the room. Waste water must flow into the main sewer if available or into an adequate septic tank.

FDE 2.09 Protective clothing. In the performance of their work the embalmer and staff must wear a protective smock or apron and rubber gloves. These articles must be cleaned or disposed of after each operation.

Funeral Directors and Embalmers and Funeral  
Directors' and Embalmers' Apprentices

Page 4

FDE 2.10 Permits (1) Before opening for business, every funeral establishment operator shall obtain a permit from the board through application upon a form furnished by the board. A permit will not be granted to an operator of a new funeral establishment or to a new operator of an existing establishment without a preinspection.

(2) A funeral establishment permit shall not be transferable from one premise to another or from one operator to another.

FDE 2.11 Operation of funeral establishment. According to the definition of the terms "funeral director," "funeral establishment," and "operators of funeral establishment" in section 156.01, Wis. Stats., and from the intent of the provisions in sections 156.04 and 156.105, Wis. Stats., it is construed that while ownership of the funeral service enterprise may be by individuals other than licensees, all contact and dealings with clients of the establishment, or for the establishment with the general public, shall be performed only by, or under the direction of, licensed funeral directors.

FDE 2.12 Commissions prohibited. Paying or accepting a commission or a salary based upon the selling price or number of funeral services sold shall be considered unethical and is therefore prohibited.

FDE 2.13 Discharge of apprentice. Whenever any licensed funeral director or embalmer discharges an apprentice he shall within five days notify the Funeral Directors and Embalmers Examining Board, giving the name and address of the apprentice, and the date of discharge.

FDE 2.14 Reciprocity. An applicant for a reciprocal funeral director or embalmer license may only reciprocate with a license obtained by original application and not on one obtained by reciprocity.

Funeral Directors and Embalmers and Funeral  
Directors' and Embalmers' Apprentices

Page 5

FDE 2.15 Business practices. (1) (a) Each funeral establishment which has a casket selection room shall have a card or brochure in each casket stating the price of the service using the casket and listing the services and other merchandise included in the price. The card shall also contain a statement that the separate price of the casket and other merchandise, facilities, equipment, and personal service will be provided upon request. Where there are separate prices for the casket, personal services, the use of facilities and the use of equipment, the card shall indicate the price of each item; only the price of the casket need be displayed in the casket if the other separately priced items are given in writing prior to selection of the casket.

(b) When another casket selection room is used (such as a casket manufacturer, distributor or other funeral establishment) the funeral service licensee in charge of making the funeral selection is responsible to see that the cards or brochures required by paragraph (1) (a) are placed in these caskets prior to the selection.

(2) At the time tentative funeral arrangements are completed and the casket is selected, but prior to the time of rendering the service and/or providing the casket and/or merchandise and before final agreement is reached between the consumer and the funeral director, the funeral director shall give or cause to be given to the persons making the arrangements a written disclosure showing:

(a) The price of the service that the family has selected and what services are included therein.

(b) The price of each of the supplemental items of service and/or merchandise requested.

(c) The amount involved for each of the items for which the funeral director will advance monies as an accommodation to the family, insofar as any of the above items can be specified at that time.

(d) The proposed method of payment. When after reviewing the written disclosure and making the casket selection and both parties agree to the final arrangements, a copy of the disclosure must be signed by the funeral director and the signed copy given to the consumer. It is recommended that the persons making the arrangements also sign the disclosure to show approval of the arrangements.

Funeral Directors and Embalmers and Funeral  
Directors' and Embalmers' Apprentices

Page 6

(3) Each funeral establishment should offer a broad range of personal services, caskets, merchandise, and prices consistent with the needs and desires of the families in the community. Records documenting the method or methods used in determining these needs and desires shall be available for review by the board and consumer.

(4) An appropriate adjustment or allowance for merchandise not provided or services not rendered shall be made. Records documenting the method or methods used in determining these allowances shall be available for review by the board and consumer.

(5) No funeral establishment shall bill or cause to be billed any item that is referred to as a "cash advanced" item unless the net amount paid for such item or items by the funeral establishment is the same as is billed by the establishment.

(6) Each funeral director shall inform persons, who are making arrangements where the remains are to be cremated without the traditional funeral, of the following: Wisconsin law does not require that human remains be placed in a casket at the time of cremation. However, crematories may require that human remains intended for cremation be placed in a container that insures protection of the health and safety of the persons handling the remains, that provides a proper covering for the remains and that is composed of the suitable materials that when burned would not endanger the health of the public.

FDE 2.16 Business telephone listings and advertising. (1) Each funeral establishment shall insure that only true funeral establishment names and addresses as registered with the Funeral Directors and Embalmers Examining Board shall appear in telephone listings or other publications and in advertising by any media whatsoever. However, different sequences of individual names which comprise the true establishment name may be used.

Funeral Directors and Embalmers and Funeral  
Directors' and Embalmers' Apprentices

Page 7

(2) If the names or pictures of unlicensed persons are used in any form of advertising for a funeral establishment, the advertisement must distinguish between the Wisconsin licensed funeral director and embalmer and the non-licensed personnel.

FDE 2.17 Radioactive materials. A funeral director or embalmer who takes possession of a dead human body which might possibly contain radioisotope must take all necessary steps to protect the members of the staff who are called upon to handle the body and must take necessary measures to eliminate any radioactive source. The funeral director must insure that every known source of radioactivity is removed from a body before final disposition.

FUNERAL DIRECTORS & EMBALMERS EXAMINING BOARD

Chapter FDE 3

UNPROFESSIONAL CONDUCT

Any occurrence of the following shall constitute unprofessional conduct by a licensed funeral director, embalmer or registered apprentice funeral director or embalmer or owner of a funeral establishment.

FDE 3.01 Giving misleading and deceptive information to family or persons involved in the arranging of a funeral or final disposition including, but not limited to, funeral costs, burial arrangements, legal requirements and religious propriety.

FDE 3.02 Acting in an offensive or obnoxious manner in the presence of family or persons attending to a part of funeral arrangements or a funeral service or other matters relating to final disposition.

FDE 3.03 Performance of any funeral or embalming duty during the planning or conducting of services while under the influence of alcohol or controlled substance. (Controlled substances are listed in Chapter 161, Wis. Stats.)

FDE 3.04 Refusal to comply with a duly authorized request for information by the board or falsifying records of any kind which are made public or requested by the board.

FDE 3.05 Gross negligence in properly providing and performing the services of funeral directing or embalming for which the individual is duly licensed.

FDE 3.06 Disclosing confidential information gained in performance of official duties outside of family members or official persons performing duly authorized duties.

FDE 3.07 Knowingly performing services or providing merchandise not authorized for which additional charges are made; or charges for services or merchandise not authorized after objection thereto for which additional charges are made.

FDE 3.08 Misrepresentation or fraud in the conduct of business or the profession of any licensee.

FDE 3.09 Outrageous conduct in the practice of the profession exceeding all bounds usually tolerated by decent society.



**Unprofessional Conduct**

**Page 2**

**FDE 3.10 Charging for removal or preparation of remains not authorized after objection to the charges by the person(s) authorized to arrange a funeral or final disposition unless the authorization was not obtained because next of kin authorized to make funeral arrangements could not be located within a reasonable time.**

FUNERAL DIRECTORS & EMBALMERS EXAMINING BOARD

Chapter FDE 4

ACCESS TO PUBLIC RECORDS

FDE 4.01 Authority and purpose	FDE 4.04 Available records
FDE 4.02 Definition	FDE 4.05 Exemptions
FDE 4.03 Access to board records	FDE 4.06 Transcripts

FDE 4.01 Authority and purpose. The rules of this chapter are adopted to implement the policy of the state of Wisconsin established by legislation and court decisions that public records are presumed open to public inspection and copying. It is the declared purpose of the Funeral Directors and Embalmers Examining Board that its officials and employees shall render whatever assistance is necessary to implement this policy.

FDE 4.02 Definition. (1) "Board" means the Funeral Directors and Embalmers Examining Board.

(2) "Record" or "records" means "public records" as defined in section 16.61 (a), Wis. Stats., and includes "property and other things" referred to in section 19.21, Wis. Stats.

(3) "Legal custodian" is the board's chairperson or alternate, who shall be the vice chairperson or any other board member. The alternate custodian shall perform the duties of the legal custodian when the legal custodian cannot be contacted and shall inform the board of actions taken. The alternate custodian shall act as agent of the board in fulfilling these responsibilities.

(4) "Office" means the public facility in which the department of regulation and licensing and any boards attached to the department are housed.

(5) "Formal hearing" means any hearing resulting after service of a complaint and notice of hearing upon a licensee.

FDE 4.03 Access to board records. (1) All records shall be kept in the office of the board.

## Access to Public Records

Page 2

(2) The legal custodian shall inform the administrative secretary assigned to the board in which cases approval is needed to release specific records segregated in accordance with section FDE 4.05 (3). If at any time the instructions are unclear, the administrative secretary assigned to the Funeral Directors and Embalmers Examining Board shall request approval for release from the legal custodian.

(3) Any person may ask the administrative secretary assigned to the Funeral Directors and Embalmers Examining Board to inspect or copy the records of the board during regular business hours. A request shall be deemed sufficient if it reasonably describes the requested record. If the administrative secretary assigned to the Funeral Directors and Embalmers Examining Board denies the request, a written appeal may be made to the legal custodian. The appeal shall briefly describe the records requested.

(4) Within 10 working days of receipt of the appeal, the legal custodian shall give the request or written notice of the determination and reasons therefore.

(5) When a record is requested in person, inspection and copying shall normally be permitted the same day. Copies of records requested by phone or mail shall normally be provided within 5 working days of receipt. If an unusual request, whether received in person, by phone or mail, would result in an unreasonable interference with the orderly operation of the office, the request shall be answered as soon as possible.

(6) Records and hearing transcripts shall be duplicated at the rate of \$.10 per page unless the applicant for the record is impecunious or shows financial need, in which case the legal custodian, at his or her discretion, may provide a free copy.

FDE 4.04 Available records. (1) Unless the legal custodian makes an exception in accordance with section FDE 4.05, records available to any person include, but are not limited to, the following:

(a) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) Statements of policy and interpretations of policy, rules, statutes, and the Constitution which have been adopted by the board.

Access to Public Records

Page 3

(c) Goals, interim and final planning documents and decisions.

(d) Staff reports and studies, consultant's reports and studies, technical reports and studies, and any other information derived from tests, studies, reports, or survey summaries conducted by public employees or others.

(e) Correspondence and materials referred to therein, by and with the public body relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines or is asked to determine the rights of the state, the public, a subdivision of state government or of any private party.

(f) Information regarding any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by the board.

(g) Any information used by the board to estimate the need to collect or expend funds upon completion of such estimates.

(h) Minutes of board meetings.

FDE 4.05 Exemptions. (1) Records may be exempt from disclosure if the legal custodian determines that the public interest in non-disclosure outweighs the benefits of disclosure.

(2) If any record contains exempt and non-exempt materials, the board shall, upon request, delete the exempt material and provide copies of the non-exempt material.

(3) Records that may be exempt include:

(a) Trade secrets, which are unpatented, secret, commercially valuable plans, appliances, formulas, or processes used for making, preparing, compounding, treating or processing articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential.

(b) Communications between the board and its legal counsel concerning the legal rights and duties of the agency if publication would adversely affect the board's position in an adversary or bargaining situation.

## Access to Public Records

Page 4

(c) Records obtained under a clear pledge of confidentiality, if the pledge was made to obtain the information in the records and was necessary to obtain the information contained in them.

(d) Records of the board's deliberations after a quasijudicial hearing.

(e) Material specifically exempted from disclosure by statute, judicial decision or attorney general's opinion.

(f) The contents of licensing examinations.

(4) The board shall determine which records are open to the public and which records may be exempt from disclosure in accordance with section FDE 4.05 (1). The board shall segregate records which may be exempt. When such a record is segregated, it shall be replaced in the open record with a notice giving a general description of the segregated record.

FDE 4.06 Transcripts. The record of formal hearings will be transcribed and copies of the written transcript will be provided free to those parties who require a transcript for appeal or other reasonable purposes and who are, at the discretion of the legal custodian, determined to be impecunious or without the financial means to purchase a copy. For those determined not to be entitled to a free copy, the board will furnish a copy of the transcript at the rate of \$.10 per page.