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PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 830

MORTUARY AND CEMETERY BOARD

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AMEND: 830-030-0000

NOTICE FILED DATE: 04/25/2024

RULE SUMMARY: Amends language to ensure proper management of licensed facilities.

CHANGES TO RULE:

830-030-0000

In General ¶¶

(1) No licensee, operator of a licensed facility, or their agent may interfere with another licensee, operator of a licensed facility, or their agent who has been legally called to take care of human remains or perform services relating to the final disposition of human remains. The choice of licensed facility or licensed person must be left entirely to the person with the legal right to control final disposition.¶¶

(2) Alternative Disposition Facility Authorities must also comply with the requirements in this division (Division 30) applicable to the handling and tracking of human remains by Crematory Authorities. Alternative Disposition Facility Authorities must, therefore, prior to, during, and after alternative disposition is complete handle and track human remains in the same manner as a Cremation Authority. Processed alternative disposition remains must be handled and tracked, prior to, during, and after being processed in a dissolution chamber or natural organic reduction chamber just as cremated remains must be handled and tracked prior to, during, and after being processed in a cremation chamber.¶¶

(3) An Alternative Disposition Facility Authority who operates a dissolution chamber for alkaline hydrolysis must utilize an industry-specific vessel that meets industry and commercial standards for use as a dissolution chamber, and must meet all required parameters for heat, time and circulation necessary to achieve the complete reduction of all human remains.¶¶

(a) A dissolution chamber that operates above atmospheric pressure must be an American Society of Mechanical Engineers' (ASME) certified pressure vessel.¶¶

(b) The Alternative Disposition Facility Authority must ensure that the discharge liquid that is a byproduct of the dissolution process meets the facility's sewage collection and treatment facility requirements regarding acceptable temperature and pH level.¶¶

(4) An Alternative Disposition Facility Authority who operates a natural organic reduction chamber must utilize an industry-specific vessel that meets industry and commercial standards for use as a reduction chamber, and must meet all required parameters for heat, time and circulation necessary to achieve the complete reduction of all human remains.¶¶

(5) It is the responsibility of the funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS 432.005(11) to ensure that an identifying metal disc with a number assigned by the State Registrar's Office imprinted on the disc is attached to the casket or other receptacle containing human remains or is attached to the remains if there is no receptacle.¶¶

(a) When human remains are to be cremated, the identifying metal disc must be secured at all times to the head end of the receptacle or to the remains if no receptacle is used until the remains are placed in the cremation chamber.¶¶

(b) When human remains are going to be buried or entombed, the identifying metal disc must be attached to the head end of the casket or receptacle, or to the remains if no receptacle is used.¶¶

(6) It is the responsibility of the Crematory Authority to see that the identifying metal disc accompanies human remains through the cremation process.¶¶

(7) It is the responsibility of the Cemetery Authority or Crematory Authority to see that the identifying metal disc is properly secured to each receptacle containing human remains, or, when no receptacle is used, to the remains, when remains are delivered to the facility and that the number on the identifying metal disc is the number recorded on the final disposition permit. The Cemetery Authority or Crematory Authority must sign the final disposition permit verifying this fact prior to accepting the remains. The Cemetery Authority or Crematory Authority may not accept remains without the proper identifying metal disc unless death occurred in a state other than Oregon.¶¶

(8) If, when the human remains are delivered to the crematory, cemetery or alternative disposition facility, no metal disc is attached to the receptacle or remains as required, or the disc number does not match the permit number as required, the funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11) must retain responsibility for the proper care and storage of the remains until the correct disc is obtained and ensure it is affixed to the receptacle or remains. If the discrepancy cannot be resolved prior to any scheduled service, the funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11), must take responsibility for notifying the person with the legal right to control final disposition that the disposition is postponed.¶¶

(9) If human remains or partial human remains, other than processed cremated remains, are discovered in a presumed unoccupied grave or crypt when opening the grave or crypt for purposes of an interment, the following is the responsibility of the cemetery authority:¶¶

(a) The cemetery authority must report the discovery to the Board on a form that has been approved by the Board.¶¶

(b) The cemetery authority must exercise diligence under the circumstances to identify the human remains.¶¶

(c) If positive identification of the remains is made, and if disinterment is not authorized pursuant to ORS 97.220 or 146.045, the human remains must not be further disturbed, the interment space must be immediately closed and the cemetery authority must update the cemetery records for that grave or crypt to include all relevant information known to the cemetery authority regarding the human remains, as outlined in OAR 830-040-0000 and ORS 97.720.¶¶

(d) If the human remains cannot be identified, and if disinterment is not authorized pursuant to ORS 97.220 or 146.045, the human remains must not be further disturbed, the interment space must be immediately closed, and the cemetery records must reflect that the interment space is occupied by unidentified remains, the date of discovery, and indicate that the space is not available for further interments.¶¶

(e) If the human remains are positively identified as remains that were originally interred in a grave adjacent to the opened grave but entered the opened grave during excavation or due to the operation of natural forces underground, the cemetery authority must make a reasonable effort to return all soil, human remains, and funerary objects to the interment space from which the material originated. The cemetery authority, if feasible, may then proceed with opening the unoccupied grave for interment.¶¶

(10) If processed cremated remains are discovered in a presumed unoccupied grave, crypt or niche when opening the grave, crypt or niche the following is the responsibility of the cemetery authority:¶¶

(a) The cemetery authority must report the discovery to the Board on a form that has been approved by the Board.¶¶

(b) If the cremated remains are identified, the cemetery authority must use reasonable diligence under the circumstances to determine if such cremated remains were placed with the permission of the cemetery authority. If no such permission was given, the cemetery authority must attempt to deliver the cremated remains to a person within the first applicable listed class in ORS 97.130(2).¶¶

(c) If the cremated remains cannot be identified or if the cemetery authority is unable to deliver the cremated remains to a person within a listed class under ORS 97.130(2), the cemetery authority must hold the cremated remains indefinitely and at a minimum, place the cremated remains in a common grave, crypt or niche, and record the specific location of the remains therein.¶¶

(d) The cemetery authority must retain a permanent record of the known circumstances of the cremated remains

including at a minimum: The original location where the cremated remains were discovered, the steps taken to identify and deliver the cremated remains, and the ultimate re-disposition of the cremated remains.¶

(11) When a licensee arranges for the scattering of cremated remains, the licensee must include in the licensee's permanent records the final location of the cremated remains and make the identifying metal disc a part of the licensee's permanent record.¶

(12) It is the responsibility of the funeral establishment or immediate disposition company licensee handling the disposition of human remains to pay the death certificate filing fee as required in ORS 432.312(1). This fee must be paid within 30 days after the billing and, in no case longer than 90 days after the billing. Failure to pay death certificate filing fees is cause for disciplinary action by the Board.¶

(13) It is the responsibility of each licensed facility to have an assigned manager for each facility at all times and to notify the Board in writing within 30 days of the assignment. In the case of funeral establishments and immediate disposition companies, the assigned manager must be an Oregon licensed funeral service practitioner.¶

~~(14) Upon providing written notification to the Board, a funeral service practitioner may be permitted to~~ For funeral establishments, the assigned manager must reside within 200 miles of all facilities they are assigned to manage.¶

(b) For alternative disposition facilities, cemetery authorities, crematory authorities, and immediate disposition companies, the assigned manager must be able to arrive at all facilities they are assigned to manage within 12 hours.¶

(14) If it is necessary for an assigned manager to reside further than 200 miles from any funeral establishment they are assigned to manage, the assigned manager or a facility principal must submit a written request to the Board for an exception to the 200-mile residency requirement - such exception for a temporary absence shall be no longer than 60 days. The written request must include at a minimum the following information:¶

(a) The time period of the assigned manager's temporary absence;¶

(b) The reason for the assigned manager's temporary absence; and¶

(c) The steps taken to ensure that all facility operations will continue under supervision on a daily basis, which shall include at a minimum:¶

(A) All electronic communication with facility staff, including but not limited to emails, faxes, internet messaging, phone calls, text messages, and video conferencing; and¶

(B) Any additional means of supervision that will be utilized during the assigned manager's temporary absence.¶

(15) The Board will review the written request for an exception to the residency requirement and determine whether, in its discretion, an acceptable reason has been provided and whether appropriate steps have been taken to ensure that facility operations will continue under supervision on a daily basis during the assigned manager's temporary absence. If the written request includes all of the requirements and the reason is satisfactory, the Board may approve the request. If the written request fails to include all of the requirements and/or the reason is unsatisfactory, the Board may deny the request and require the facility to assign a new manager and submit a change of principal application for all impacted facilities.¶

(16) Upon submission of a written notification to the Board, a funeral service practitioner may be authorized to manage two funeral establishments or two immediate disposition companies, or one of each. A funeral service practitioner may be authorized by the Board to manage more than two funeral establishments or immediate disposition companies, or a combination of ~~same~~ them, upon providing a written request to the Board that describes the basis and acceptable reason for the request. The Board may approve the written request after consideration of ~~relevant facts or circumstances including, but not limited to, information that the Board may request from the~~ the provided information. Prior to making its decision, the Board may request additional information from the requesting funeral service practitioner.

Statutory/Other Authority: ORS 692.160, 692.320

Statutes/Other Implemented: ORS 692.180, 692.405