



ALABAMA FUNERAL SERVICE

RULES and REGULATIONS

Alabama Administrative Code

Chapter 395

November 2017

Alabama Funeral Services Statutes and Regulations
Code of Alabama 1975, Title 34 Chapter 13 & Administrative Code 395

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BOARD AND ITS MEMBERS**

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395-X-1-.01 Organization.

The Alabama Board of Funeral Service is made up of seven professional members appointed by the Governor, one from each U.S. Congressional District of the state. The term of a member shall be four years and no person may serve more than two consecutive terms. Four (4) of the members shall have been practicing and licensed embalmers in Alabama for the ten (10) consecutive years immediately preceding their appointment and shall be licensed as embalmers and funeral directors during their terms. Three (3) of the members shall have been actively engaged in funeral directing in Alabama for ten (10) consecutive years, immediately preceding their appointment, and shall be licensed as funeral directors and shall be operators of a funeral establishment in this state at the time of their appointment. Commencing on January 1, 2019, the board shall be reconstituted to consist of seven professional members and two consumer members. Should a member, for any reason, become ineligible to serve on the Board, the position shall become vacant and a new person, properly qualified, shall be appointed by the appointing authority to fill the vacancy and said person shall complete the remainder of such term. The Board officers consist of chair, vice chair, treasurer, and secretary. These positions shall be filled by the Board during the first meeting immediately following the appointment each year.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-20, 34-13-2334-13-26.

History: Amended: Filed August 9, 1985. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed July 14, 2017; effective October 27, 2017.

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395-X-1-.02 Nomination and Appointment.

(1) Professional Members.

(a) In October of each year, a meeting shall be held in Montgomery for the purpose of nominating eligible candidates to serve on the Board as a professional member. Nominations are taken for Districts One (1), Two (2), and Five (5) on even numbered years and Districts Three (3), Four (4), Six (6), and Seven (7) on odd numbered years. Three nominees from each district shall be selected and their names submitted to the Governor, who shall appoint one person from each district.

(2) Consumer Members

(a) One consumer member shall be appointed by the Lieutenant Governor and one consumer shall be appointed by the Speaker of the House using their own discretion. Consumer members' terms shall run concurrent with Districts One (1), Two (2), and Five (5).

(b) Consumer members may not reside in the same congressional district.

(3) New members are sworn in at the first regular meeting following December 31 of the respective year. If an appointment is not made before the expiration of the term of a board member, then the board member may continue to serve until a successor has been appointed.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-20, 34-13-26.

History: Amended: Filed August 9, 1985. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed June 6, 2014; effective July 11, 2014. **Amended:** Filed July 14, 2017; effective October 27, 2017.

395-X-1-.03 Meetings.

The Board shall meet at least once quarterly for the purpose of conducting Board business. Special meetings may be called by the Board or the executive director to deal with matters that require immediate attention. All business meetings are open to the public with the exception of executive sessions allowed by the state "sunshine law." Anyone wishing to appear before the Board or who wishes the Board to consider a new rule, rule amendment, or repeal, should make such request in writing and submit it to the Board office to have the matter placed on the agenda of the next meeting.

Author:

Statutory Authority: Code of Ala. 1975, §34-13-26.

History: Amended: Filed August 9, 1985. **Amended:** Filed June 6, 2014; effective July 11, 2014. **Amended:** Filed July 14, 2017; effective October 27, 2017.

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395-X-1-.04 Board Staff.

The Board shall employ an executive director and an associate executive director to operate the Board office. They may also employ an administrative assistant to aid in the operation. The staff shall work at the pleasure of the Board and the Board shall set all conditions and policies of employment. The executive director has the capacity of Secretary of the Board office and has interim decision authority when the Board is not in session. All decisions made by the executive director are subject to Board approval. The associate executive director shall aid the executive director in their duties.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, § 34-13-26.

History: Amended: Filed August 9, 1985. **Amended:** Filed July 14, 2017; effective October 27, 2017.

395-X-1-.05 Applicability.

All rules and regulations of the Board, relating to matters which are not specifically addressed in Title 34, Chapter 13, Code of Ala. 1975, shall be in addition to the provisions of said statute. The rules and regulations, however, shall not be construed to amend, supersede, or otherwise alter the state funeral service law, as it may be amended by the legislature.

Author:

Statutory Authority: Code of Ala. 1975, § 34-13-26.

History: Filed August 9, 1985.

**CHAPTER 395-X-2
LICENSE**

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395-X-2-.01 Application for License.

Anyone wishing to apply for any type of license, registration, or certification that is issued by the Board, must:

- (1) Apply on a form supplied by the Board. Said applicant must meet and comply with all provisions of Title 34, Chapter 13, Code of Ala. 1975, relating to licensure and application thereof. No application is considered valid unless it is submitted to and received by the Board office.
- (2) The passing score for any Board examination shall be a scaled score of 75.
- (3) The Board shall establish the beginning time of all examinations it administers. These examinations shall be completed within 210 minutes within said beginning time, as set by the Board, regardless of the length or number of sections of the examinations.
- (4) In addition to the application fee, the Board shall charge each applicant an examination fee of \$100.00 for each funeral directing or embalming exam taken.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-70(c), 34-13-90(c).

History: Amended: Filed August 9, 1985; August 8, 1986 (rule title changed from "Application of License" to "Application for License"); August 7, 1991. **Amended:** Filed August 10, 2004; effective September 14, 2004. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed July 14, 2017; effective October 27, 2017.

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395-X-2-.02 Renewal of License.

(1) All licenses and certifications expire each year on October 1. Commencing on October 1, 2018, all licenses expire every two years on October 1.

(2) Each license must be renewed on or before October 1st or it shall be considered expired and may only be renewed by payment of license and penalty fees and meeting all requirements for delinquent renewal as provided in Code of Ala. 1975, §34-13-55.

(3) The Board shall provide notice by electronic format to each apprentice, funeral director, embalmer, and establishment at least sixty (60) days prior to the expiration date of said license that his or her renewal fee is due. Each license contains the expiration date and, therefore, failure to receive a renewal notice does not exempt a licensee from the required renewal of his/her license.

(a) Apprentice certifications shall expire each year on October 1 and shall be renewed annually by October 1st.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §34-13-26.

History: Amended: Filed August 9, 1985; August 8, 1986. **Amended:** Filed June 6, 2014; effective July 11, 2014. **Amended:** Filed July 14, 2017; effective October 27, 2017.

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395-X-2-.03 Fees.

(1) The fees to be charged by the Board before October 1, 2018 are as follows:

FEE TYPE/PURPOSE	AMOUNT
Funeral Director Application Fee	\$100.00
Embalmer Application Fee	\$100.00
Apprentice Funeral Director / Apprentice Embalmer Application Fee per certificate	\$20.00
Funeral Establishment Application Fee	\$400.00
Funeral Director / Embalmer / Practical Embalmer Renewal Fee per license	\$100.00
Funeral Establishment Renewal Fee	\$250.00
Funeral Director Apprentice / Embalmer Apprentice Renewal Fee per certificate	\$20.00
Funeral Establishment Original Inspection Fee	\$150.00
Funeral Establishment Re-Inspection Fee	\$150.00
Funeral Establishment Annual Inspection Fee	\$75.00
Late Penalty for Past Due Inspection Fee	\$150.00
Funeral Establishment – License Transfer (Temporary Location)	\$25.00
Funeral Establishment Change of Ownership	\$250.00
Funeral Establishment – Reissued License Due to Name Change	\$25.00
Special Operating Permit	\$50.00
Late Renewal Fee or Lapsed Penalty	\$50.00
Reciprocity Licenses per license	\$250.00
Reciprocity Special Work Permit per permit	\$25.00
Crematory Registration Fee	\$200.00
Cremationist Application Fee	\$50.00
Cremationist Renewal Fee	\$50.00
Background Check	Current fee charged by Alabama Law Enforcement Agency
Continuing Education Provider Administrative Fee	\$200.00
Replacement Wall Certificate per certificate	\$15.00
Replacement Wallet or Wall License per license	\$15.00
Laws, Rules, Regulation Exam	\$50.00

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(2) Commencing on October 1, 2018 all funeral director, embalmer, cremationist, and establishment licenses shall be renewed biennially. The fees to be charged by the Board after October 1, 2018 are as follows:

FEE TYPE/PURPOSE	AMOUNT
Funeral Director Application Fee	\$200.00
Embalmer Application Fee	\$200.00
Apprentice Funeral Director / Apprentice Embalmer Application Fee per certificate	\$20.00
Funeral Establishment Application Fee	\$400.00
Funeral Director / Embalmer / Practical Embalmer Renewal Fee per license	\$200.00
Funeral Establishment Renewal Fee per establishment	\$500.00
Funeral Director Apprentice / Embalmer Apprentice Renewal Fee per certificate	\$20.00
Funeral Establishment Original Inspection Fee	\$150.00
Funeral Establishment Re-Inspection Fee	\$150.00
Funeral Establishment Annual Inspection Fee	\$75.00
Late Penalty for Past Due Inspection Fee	\$150.00
Funeral Establishment – License Transfer (Temporary Location)	\$25.00
Funeral Establishment Change of Ownership	\$250.00
Funeral Establishment – Reissued License Due to Name Change	\$25.00
Special Operating Permit	\$50.00
Late Renewal Fee or Lapsed Penalty per license	\$100.00
Reciprocity Licenses per license	\$250.00
Reciprocity Special Work Permit per permit	\$25.00
Crematory Registration Fee	\$200.00
Cremationist Application Fee	\$100.00
Cremationist Renewal Fee	\$100.00
Background Check	Current fee charged by Alabama Law Enforcement Agency
Continuing Education Provider Administrative Fee	\$200.00
Replacement Wall Certificate per certificate	\$15.00
Replacement Wallet or Wall License per license	\$15.00
Laws, Rules, Regulation Exam	\$50.00

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-51, 34-13-53, 34-13-55, 34-13-70, 34-13-74, 34-13-90, 34-13-111, 34-13-113, 34-13-114, 34-13-130, 34-13-131.

History: Originally filed as Rule No. 395-X-2-.04 entitled "Cost of Renewal License."

Amended: Filed April 5, 1983; August 9, 1985. **Amended:** Filed May 3, 2002; effective June 7, 2002. **Amended:** Filed May 14, 2003; effective June 18, 2003. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed June 6, 2014; effective July 11, 2014. **Amended:** Filed July 14, 2017; effective October 27, 2017.

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395-X-2-.04 Display of Licenses.

All licenses, registration, or certificate granted by the Board shall be on public display in a location of the establishment that is not restricted from the public travel.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-52.

History: Amended: Filed April 6, 1983; August 9, 1985. (Formerly Rule No. 395-X-2-.05.) **Amended:** Filed May 3, 2002; effective June 7, 2002. **Repealed and New Rule:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed July 14, 2017; effective October 27, 2017.

395-X-2-.05 State Laws, Rules, Regulation (LRR) Examination.

- (1) All candidates for original cremationist, funeral director and/or embalmer licensure must successfully complete an examination on Alabama Funeral Service law, rules and regulations.
- (2) A passing score on the LRR exam shall be 75% correct answers.
- (3) The Board shall establish the beginning time of all LRR examinations it administers. These examinations shall be completed within 60 minutes from said beginning time, as set by the Board, regardless of the length or number of sections of the examinations.
- (4) In addition to the license application fee, the Board shall charge each applicant an LRR examination fee of \$50.00 for each LRR exam taken.
- (5) The Board's staff may administer the LRR exam.
- (6) This examination shall be in addition to any other examinations or tests prescribed in Title 34, Chapter 13, Code of Ala. 1975. This requirement shall become effective October 1, 1986. The Board shall supply to each funeral establishment, within fiscal year 1985-86, a copy of the state funeral service laws and regulations and any amendments or revisions of the same made thereafter.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §34-13-26.

History: Filed August 9, 1985. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed July 14, 2017; effective October 27, 2017.

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395-X-2-.06 Disaster Mutual Aid.

In the event that a disaster or state of emergency occur resulting in massive casualties which overwhelms the capabilities of funeral directors and embalmers of the affected community, licensed embalmers and funeral directors from other states may assist such local efforts in providing funeral directing and embalming services under the following conditions:

- (a) That the disaster related casualties exceed the capabilities of the local licensees;
- (b) That the disaster be declared as such by the appropriate emergency management officials;
- (c) That the out-of-state licensees be eligible for reciprocity licensure in Alabama;
- (d) That the out-of-state licensees be authorized members of disaster mortuary teams;
- (e) That the services provided by these licensees be limited for the duration of servicing the disaster and that their service be under the supervision of Alabama licensees;
- (f) That only Alabama licensed funeral directors may sign death certificates relating to the disaster.

Author: Warren S. Higgins

Statutory Authority: Code of Ala. 1975, §§34-13-3, 34-13-26.

History: Filed August 7, 1991.

395-X-2-.07 Continuing Education.

(1) Beginning October 1, 2014, each cremationist, funeral director and embalmer, licensed by the Board, shall complete a minimum of eight hours of Board approved continuing education within a two-year period ending September 30, 2016 and then continuing each two-year period thereafter. Included in the required eight hours, all licensees must complete a board approved continuing education course in ethics and blood-borne pathogens/universal precautions.

(2) An approved program of activity shall:

- (a) Constitute an organized program or course of learning dealing with matters directly related to the practice of funeral directing, embalming, or funeral service.
- (b) Be in the format of a lecture, workshop, seminar, conference, or internet based program or course.
- (c) It permits attendance by all funeral directors and embalmers in the State of Alabama.

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(3) A provider, organization or person which desires to obtain approval of a course, program or other continuing education activity shall obtain approval prior to the activity. A provider, organization or person shall make application on a form provided by the Board at least 90 days prior to the activity. The applicant shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers, and other pertinent information.

Commencing with the continuing education period for fiscal year 2019-2020 and continuing each two-year period thereafter, a provider, organization, or person applying to be a continuing education provider in this state shall pay an administrative fee of \$200.00.

(4) Certification of completion must be awarded upon the successful completion of all approved continuing education courses and must include the following information:

- (a) Provider's name;
- (b) Licensee's name and license number;
- (c) Approved course title or number;
- (d) Date of course completion;
- (e) Number of approved continuing education credit hours awarded; and

(5) The board shall approve one hour of continuing education credit time for every one hour of instruction completed by the licensee at an approved program of activity.

(6) The licensee shall retain all certifications of completion for three years after the course.

(7) Failure to comply with the continuing education requirements shall result in:

(a) The Board shall not renew the license of an individual who fails to obtain the continuing education requirements of this section, except as provide by statute, until the Board receives documentation that the licensee has obtained the required continuing education.

(b) A licensee who fails to obtain the required number of continuing education hours prior to the expiration date appearing on the license shall not have their license renewed until the licensee has obtained the required continuing education hours for that period and paid all applicable fees and penalties.

(8) A license shall not be renewed unless the licensee certifies on the renewal application that the individual completed the required number of continuing education hours specified in paragraph (a) of this rule.

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(9) The Board shall not allow continuing education credit for courses where the principal purpose of the course is to promote, sell or offer goods, products or services to funeral homes or crematories.

(10) A licensee who has more than 8 hours of continuing educations in one renewal period, may carry over a maximum of 4 hours to the next renewal period.

(11) All course providers shall retain records of all licensees attending and those satisfactorily completing such continuing education courses for a period of three years following each course. The Board may require course providers to submit copies of such records or certifications, as it deems necessary, to ensure compliance with continuing education requirements.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-53.

History: New Rule: Filed June 6, 2014; effective July 11, 2014. **Amended:** Filed July 14, 2017; effective October 27, 2017.

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395-X-2-.08 Cremationist

- (1) An individual seeking licensure as a cremationist must:
 - (a) Be certified as a crematory operator by successfully completing a crematory operator training course approved by the board, in addition to other requirements as stated in Title 34 Chapter 13, Code of Alabama 1975. The course must be no less than 7 hours instructional time.
 - (b) Submit the crematory operator training course certificate of completion to the Board before a license is issued.
 - (c) Individual who completed a board approved crematory operator training course prior to October 1, 2017 and the completion date is greater than 4 years must complete a re-fresher course or another crematory operator training course approved by the board.
 - (d) Submit an affidavit of at least one crematory operator to the effect that the applicant is of good character and has qualified himself or herself to become licensed as prescribed by Title 34 Chapter 13, Code of Alabama 1975.
- (2) Once an individual receives his/her crematory operator certification, a cremationist must complete crematory operator training approved by the board every 4 years, said training shall count toward continuing education.
- (3) The board may issue a special work permit to individuals seeking licensure as a cremationist, if the board determines that the applicant satisfies all the requirements for licensure except for having successfully completed a board approved crematory operator training course. The special work permit shall expire one year from the date of issuance allowing the applicant the time to comply with the one year time frame to obtain a crematory operator certification as stated in §34-13-120.1(b), Code of Alabama 1975.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-120, 34-13-120.1.

History: New Rule: Filed July 14, 2017; effective October 27, 2017.

**CHAPTER 395-X-3
APPRENTICE**

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395-X-3-.01 Apprentice Funeral Director.

(1) Each apprentice funeral director shall:

- (a) Assist in conducting a minimum of twenty (20) funerals each year of his/her apprenticeship; it being the specific intent of the Board that no person shall be approved for funeral director licensure unless he/she has assisted in conducting a minimum of forty (40) funerals prior to application for licensure. Each apprentice funeral director shall maintain a case report of said services containing the name of the deceased, date of service, and signature of the supervising funeral director. The case report and annual report shall be submitted to the board with each renewal. The provisions of this regulation shall come in effect for each apprentice originally applying on or after October 1, 1985, and shall be in addition to requirements provided in Title 34, Chapter 13, Code of Ala. 1975.
- (b) In addition to the case report and annual report the apprentice shall submit with each renewal a Skills Evaluation form completed by their supervisor and proof of enrollment from an accredited mortuary college or school or proof of having obtained a bachelor degree from an accredited college or university.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §34-13-26.

History: Amended: Filed August 9, 1985. (Rule previously entitled "Apprentice Funeral Directors and Embalmers.") **Amended:** Filed July 14, 2017; effective October 27, 2017.

395-X-3-.02 Apprentice Embalmer.

(1) Each apprentice embalmer shall:

- (a) Assist in embalming a minimum of twenty (20) human dead bodies each year of his/her apprenticeship, it being the specific intent of the Board that no person shall be approved for embalmer licensure unless he/she has assisted in embalming a minimum forty (40) human dead bodies prior to application for licensure. Each apprentice embalmer shall maintain a case report of said embalming, containing the name of the deceased, date of embalming, and signature of the supervising embalmer. The case report and annual report shall be submitted to the board with each renewal. The

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provision of this regulation shall come into effect for each apprentice originally applying on or after October 1, 1985, and shall be in addition to requirements provided in Title 34, Chapter 13, Code of Ala. 1975.

- (b) In addition to the case report and annual report the apprentice shall submit with each renewal a Skills Evaluation form completed by their supervisor and proof of enrollment from an accredited mortuary college or school.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §34-13-26.

History: Amended: Filed August 9, 1985. (Rule previously entitled "Apprentice Annual Reports.") **Amended:** Filed July 14, 2017; effective October 27, 2017.

395-X-3-.03 Apprentice Supervision.

- (1) Title 34, Chapter 13, Code of Ala. 1975, requires apprentice funeral director's period of apprenticeship to be under the supervision of a licensed funeral director. Title 34, Chapter 13, Code of Ala. 1975, requires apprentice embalmers' period of apprenticeship to be under the supervision of a licensed embalmer.
- (2) The apprentice supervisor may only supervise three apprentices at any given time, excluding the Embalming Clinical Lab sites for mortuary colleges or schools.
- (3) The apprentice supervisor's license(s) must be current, actively working, and in good standing with the board. For this section, good standing means the licensee has a current license with no pending actions and is not on probation with the board.
- (4) Whenever an apprentice funeral director or apprentice embalmer is performing any of the activities or duties of licensed funeral directors or embalmers, respectively, a licensed funeral director or licensed embalmer under whose supervision the apprentice funeral director or apprentice embalmer is performing the particular activity or duty, must:
 - (a) Be present on the premises of the funeral establishment where the activities or duties are being performed;
 - (b) Be readily available to assist the apprentice.
- (5) When an apprentice funeral director or apprentice embalmer is performing any of the activities or duties of licensed funeral directors or embalmers, respectively, and that work is not being performed on the premises of the funeral establishment, a licensed funeral director or licensed embalmer under whose supervision the apprentice funeral director or apprentice embalmer is performing the particular activity or duty, must:

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- (a) Be present on the premises of the church, synagogue, chapel, auditorium, cemetery, or any other location where the activities or duties are being performed;
- (b) Be readily available to assist the apprentice.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §34-13-26.

History: New Rule: Filed August 10, 2004; effective September 14, 2004. **Amended:** Filed July 14, 2017; effective October 27, 2017.

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INVESTIGATIONS AND INSPECTIONS**

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395-X-4.01 Original Inspection of Funeral Establishments.

(1) Before a funeral establishment may open for business:

(a) An inspection of the premises must be made by one of the Board's staff or its members to verify that the establishment is in compliance with all rules and laws.

(b) The establishment must obtain a current business license from the county or city municipality where the establishment is located.

(2) The Board shall charge a fee of one hundred fifty (150) dollars for the first inspection and one hundred fifty (150) dollars for any re-inspection necessitated by failure to meet minimum requirements in the first inspection.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-11, 34-13-26.

History: Amended: Filed August 8, 1986. **Amended:** Filed June 6, 2014; effective July 11, 2014.

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395-X-4.02 Annual Inspections of Funeral Establishments.

The Board shall inspect each funeral establishment at least once annually to ensure sufficient operation of the establishments. The Board shall charge a fee of seventy-five (75) dollars for each inspection conducted as provided in Code of Ala. 1975, §34-13-111(b). Said fees shall be submitted to the Board within forty-five (45) days of the inspection. Inspection fees that are not received by the Board within forty-five (45) days will be charges a late fee penalty of one hundred fifty (150) dollars. Should an establishment be found to be noncompliant of state funeral service laws or regulations, the inspector may give the establishment a specified period of time, to be set by the inspector, to correct the violations. Following the duration of such period, said establishment will be reinspected. Should the same violations remain, the establishment operator will be notified to appear before the Board to answer charges of violating state funeral service laws or regulations. It is hereby declared to be the intent of the Board that such period of compliance and reinspection is left completely to the discretion of the investigator and should violations or inadequacies found on the initial inspection pose serious consequences, the investigator may request the establishment operator to appear before the Board for such violations without providing period of compliance on reinspection.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-12-111.

History: Amended: Filed August 8, 1986. **Amended:** Filed January 30, 2012; effective March 5, 2012.

395-X-4.03 Complaints and Investigations.

Any person who feels that a licensee has committed an act which is in violation of state laws or regulations relating to funeral service may make a complaint to the Board. The Board will only accept formal written complaints unless in the discretion of the Board representative receiving the complaint, there is sufficient information supplied by an oral complaint to warrant further investigation. After a complaint is received and reviewed, the Board staff shall send a copy of the complaint to the affected licensee by certified mail. The licensee shall answer the complaint in writing within twenty (20) days. After receipt of the response from the licensee or lapse of 20 days, the Board may conduct an investigation into the charges. If an investigation is initiated, upon its completion, the investigator, along with one Board member and/or legal counsel, shall review the evidence obtained to decide if an administrative hearing by the Board is necessary. If such hearing takes place, the Board and its staff shall inform the accused licensee and meet any other requirements as set forth in Title 34, Chapter 13, and Title 41, Chapter 22, Code of Ala. 1975, relating to administrative hearings. Should a Board member be involved in the investigation or in deciding the necessity of a hearing, said member shall not participate in hearing the merits of the case or the final decision process of the hearing.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, § 34-13-26.

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History: Filed August 8, 1986. **Amended:** Filed January 30, 2012; effective March 5, 2012.

395-X-4-.04 Managing Funeral Director

No funeral establishment shall be licensed except upon the basis of employing a managing funeral director whose physical residence address is within 75 miles of the physical address of the funeral establishment.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-112.

History: New Rule: Filed July 14, 2017; effective October 27, 2017.

395-X-4-.05 Business Cards

If the business card of a funeral establishment contains the name of an individual, the individual's job title must be stated on the business card. If the job title stated on the business card is funeral director, embalmer, undertaker, mortician, cremationist, apprentice funeral director, apprentice embalmer, or any like title, the individual must hold a current license or certificate issued by the Board.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-110.

History: New Rule: Filed July 14, 2017; effective October 27, 2017.

395-X-4-.06 Records

All records required under Title 34, Chapter 13 and by rule of the board shall remain on site of the funeral establishment and be promptly produced for inspection or investigation upon request by an agent of the board.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26.

History: New Rule: Filed July 14, 2017; effective October 27, 2017.

**CHAPTER 395-X-5
PAYMENTS TO THE BOARD**

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395-X-5-.01 Payments to The Board

395-X-5-.01 Payments to The Board.

The Board will only accept cash, money orders, certified checks, and cashier's checks as payment if the issuer has previously issued a bad check to the Board.

There will be a \$30.00 fee for any returned or uncollectable check, in addition to the original amount of the check. Personal or business checks will be accepted as long as the said checks are collectable.

Author: Warren S. Higgins

Statutory Authority: Code of Ala. 1975, §34-13-26.

History: Filed April 6, 1983. Amended: Filed August 11, 2009; effective September 15, 2009.

**CHAPTER 395-X-6
FUNERAL ESTABLISHMENT REQUIREMENTS**

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395-X-6-.01 Preparation Room.

(a). The preparation room of a funeral establishment shall have at least:

1. One approved embalming table,
2. Operating embalming equipment,
3. All professional instruments necessary for embalming and the preparation of dead human bodies.
4. The walls and floors shall be non-porous for easy cleaning.
5. The preparation room shall be equipped with hot and cold running water,
6. A ventilation fan,
7. Container or receptacles for soiled linen, clothing, and waste disposal,
8. Devices for proper drainage and waste disposal.

(b). A funeral establishment that has more than one location in this state is not required to maintain more than one preparation room for embalming, unless its locations are more than 25 miles from each other. The funeral establishment shall maintain at each of its

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locations a preparation or holding room which shall be adequately equipped for the holding and storage of dead human bodies. The holding room shall meet the following requirements:

1. The establishment must be under the same ownership as the embalming facility, and be within a 25 miles radius of the centralized embalming facility, and be located in this state.
2. The walls and floors shall be non-porous for easy cleaning.
3. The holding room shall be equipped with hot and cold running water,
4. The holding room shall be equipped with an aspirator, trocar, nasal tube aspirator, aspirating hoses, and adequate drainage.
5. Container or receptacles for soiled linen, or clothing, and waste disposal,
6. It shall have adequate lighting.

(c). All contents or items shall be kept clean of blood when not in use and at no time shall the preparation room or holding room be used as a storage area.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-113, 34-13-151.

History: Filed July 31, 1984. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed June 6, 2014; effective July 11, 2014.

395-X-6-.02 Display or Selection Room.

Each establishment shall have a selection or display room for persons to view available funeral merchandise or supplies. In addition to statutory requirements the display room shall be clean and neatly arranged and shall contain a stock of adult caskets and funeral supplies displayed in full size, cuts, photographs, or electronic images. Each funeral establishment shall have a card or brochure in each full-size and cut casket and a clear statement on each photograph and electronic image of a casket stating the unit price of that casket. At no time shall less than eight different adult full size caskets be on the premises.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-9, 34-13-26, 34-13-113.

History: Filed July 31, 1984. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed June 6, 2014; effective July 11, 2014.

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395-X-6-.03 Rest Rooms.

Each establishment shall have at least one public rest room. The rest room(s) shall have nonporous floors and clean walls and also shall be equipped with hot and cold running water, roll or disposable towels, and necessary lighting for adequate visibility. The rest room(s) shall not be used as a storage area for mops, brooms, or any other items.

Author:

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-151.

History: Filed July 31, 1984.

395-X-6-.04 General Interior.

The interior of the establishment shall be maintained to assure that there are no rotten or deteriorated boards or flooring which would be subject to public travel. All outside openings shall be screened, covered, or otherwise sealed to prevent the entrance of insects or rodents. Any openings between the preparation room and public areas shall be sealed to prevent fumes from escaping into such areas. All public areas should be maintained to present a clean and attractive appearance which includes the repair and maintenance of all walls and floors which may have holes, scaling paint, or any other deterioration.

Author:

Statutory Authority: Code of Ala. 1975, §§ 34-13-26, 34-13-151.

History: Filed July 31, 1984.

395-X-6-.05 General Exterior.

The exterior and immediate surroundings of the establishment should be maintained to assure that the premises be free of litter and debris and that all areas subject to public travel be free of objects or other matter which could cause possible injury. All roofing or overhead covering shall be maintained to prevent any leaks to the interior of the establishment.

Author:

Statutory Authority: Code of Ala. 1975, §§ 34-13-26, 34-13-151.

History: Filed July 31, 1984.

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395-X-6-.06 Embalming Records.

(1) Embalming Log.

- (a) Each funeral establishment in this state, beginning January 1, 1986, shall keep a record of each human dead body embalmed at said establishment and shall retain such record for a period of not less than four (4) years.
- (b) The record may be in simple log form, but shall contain
 - 1.the name of the deceased
 - 2.date of embalming
 - 3.time embalming procedure began and ended
 - 4.the signature of the embalmer.

(2) Embalming Authorization.

- (a) In accordance with the Federal Trade Commission Funeral Rule, express consent must be obtained prior to embalming. The express consent must be documented and retained in the decedent's file. In addition to express consent, the funeral establishment must obtain written authorization for embalming from the authorizing agent during the funeral arrangement conference.

(3) Said records may contain any additional information, at the discretion of the establishment, so long as it meets the aforementioned provisions. Embalming records will be checked during the annual inspection beginning fiscal year 1986-87.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, § 34-13-26.

History: Filed August 9, 1985. **Amended:** Filed July 14, 2017; effective October 27, 2017.

395-X-6-.07 Identification of Dead Human Bodies.

In addition to the identification systems as provided in Section 22-19-5, Code of Ala. 1975, the Alabama Board of Funeral Service hereby provides:

- (1) A non-detachable ankle bracelets is deemed as the approved method of identification of dead human bodies in the possession or custody of a funeral establishment in this state.
- (2) The non-detachable ankle bracelet may contain any information at the discretion of the establishment in addition to the following required information the concerning the deceased:
 - (a) First and last name
 - (b) Date of Death
 - (c) Name of Funeral Establishment

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Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §34-13-26.

History: New Rule: Filed August 11, 2009; effective September 15, 2009. **Amended:** Filed July 14, 2017; effective October 27, 2017.

395-X-6-.08 Mortuary Services.

Each Mortuary Service establishment shall meet and comply with all provisions section 395-X-6-.01, 395-X-6-.04, 395-X-6-.05, 395-X-6-.06 and 395-X-6-.07 of this chapter and Title 34, Chapter 13, Code of Ala. 1975, relating to mortuary services.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-113(C).

History: New Rule: Filed January 30, 2012; effective March 5, 2012.

395-X-6-.09 Crematory

- (1) A funeral establishment that begin operating a crematory on or after October 1, 2017, shall comply with Title 34, Chapter 13, Code of Ala. 1975 and Alabama Administrative Code 395.
- (2) A funeral establishment operating a crematory in this state before October 1, 2017 shall comply with Title 34, Chapter 13, Code of Ala. 1975 and Alabama Administrative Code 395, if any of the following occur:
 - (a) Major structural renovation are made to the crematory facility that includes the addition of square footage or redesign of the facility.
 - (b) Installation of an additional cremation chamber or the relocation of an existing chamber.
 - (c) The establishment closes and reopens.
- (3) The cremation chamber must be:
 - (a) Reasonable clean and free of excessive residue
 - (b) Fully operational with a working thermostat

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-120.

History: New Rule: Filed July 14, 2017; effective October 27, 2017.

395-X-6-10 Crematory Holding Room

- (1) The holding room within a crematory facility for the retention of human remain before cremation and cremated remains after cremation shall be a minimum of 100 square feet.
- (2) The holding room shall be secured by a locking door(s) with signs indicating “Employees Only”.
- (3) The walls and floors shall be non-porous for easy cleaning.
- (4) The holding shall a container or receptacle for soiled linen, or clothing, and waste disposal.
- (5) It shall have adequate lighting.
- (6) All contents or items shall be kept clean of blood and at no time shall the holding room be used as a storage area.
- (7) Any openings between the holding room and public areas shall be sealed to prevent odors from escaping into such areas.
- (8) Human remains shall never be stacked or placed upon other human remains. For this rule stacked shall mean in direct contact one on top of the other.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-120.

History: New Rule: Filed July 14, 2017; effective October 27, 2017.

395-X-6-11 Refrigeration Unit

- (1) Refrigeration units for the storage of human remains in a crematory facility shall:
 - (a) Hold a minimum 3 human remains.
 - (b) Maintain a constant temperature between 35 degrees to 45 degrees Fahrenheit at all times.
- (2) Human remains shall never be stacked or placed upon other human remains. For this rule stacked shall mean in direct contact one on top of the other.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-120.

History: New Rule: Filed July 14, 2017; effective October 27, 2017.

395-X-6-.12 Combustible Cremation Container

- (1) All human remains shall be cremated in a combustible container that provides a complete covering of the remains.
- (2) Human remains to be cremated shall be immediately placed in or delivered to the crematory in a combustible container marked with the following identifying information directly on the container:
 - (a) First and last name
 - (b) Date of Death
 - (c) Name of Funeral Establishment

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-121.

History: New Rule: Filed July 14, 2017; effective October 27, 2017.

395-X-6-.13 Internal Identification System

- (1) The approved method of internal identification for human remains to be cremated at a crematory shall be metal tags containing the following information:
 - (a) Crematory Name
 - (b) Identification Number
- (2) The metal tag shall be present with the remains through-out all phases of the cremation process.
 - (a) When the human remains are present in the cremation chamber the assigned metal tag may be inside the chamber or attached to the outside of the chamber.
- (3) Following the completion of the cremation process the metal tag shall be secured in the following manner:
 - (a) If the cremated remains are placed in a temporary container, then the metal tag shall be secured to the outside of the inner plastic bag containing the cremains.
 - (b) If the cremated remains are placed into a permanent receptacle, then the metal tag shall be placed inside of the receptacle.
- (4) Cremated remains that have been divided into multiple receptacles with written consent from the authorizing agent shall be labeled with identifying information of the deceased.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-121.

History: New Rule: Filed July 14, 2017; effective October 27, 2017

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395-X-6-.14 Cremation Records.

(1) Cremation Log.

(a) The cremation log shall be in simple log form containing:

- 1.The name of the deceased
- 2.Internal identification number
- 3.Date of cremations
- 4.Start time and end time of cremation
- 5.Cremation preformed for
- 6.Disposition of Cremains
- 7.The signature of the cremationist.

(2) Cremation Authorization.

(a) The cremation authorization form must contain:

- 1.The name of the Crematory performing the cremation.
- 2.The name of the funeral home the cremation is being performed for.
- 3.Identifying information of the deceased including: Name, date of birth, date of death, age, place of death, time of death,
- 4.Mechanical or artificial implants
- 5.Authorizing agent(s) signatures and relationships to the deceased.
- 6.Disposition of cremated remains.
- 7.Party to receive cremated remains
- 8.Signature and title of funeral home representative
- 9.Signature for receipt of cremated remains.

(b) Funeral establishments arranging cremations must use the cremation authorization form of the crematory where the cremation will be performed.

(3) Said records may contain any additional information, at the discretion of the establishment, as long as it meets the aforementioned provisions.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-120, 34-13-121.

History: New Rule: Filed July 14, 2017; effective October 27, 2017.

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395-X-6-.15 Inspection Penalties

(a). Any violation under this section is a violation of minimum standards and a threat to the health, safety, and welfare of the public. A funeral establishment or mortuary service licensed by the board shall pay a fine to the board for each violation of this section. If the inspector or a representative of the board finds a violation during an inspection, he or she may immediately issue a citation listing each violation and fine or submit the matter to the board in accordance with the administrative procedures act. After a citation, has been issued, the licensee shall either pay the amount of the fine to the board or submit a written request for an administrative hearing before the board. A request for an administrative hearing before the board shall be received by the board not later than 30 calendar days after the day the citation is issued. Failure to either pay the fine or timely request an administrative hearing before the board shall cause additional disciplinary action to be taken against the licensee. The requirements for inspections and the citation fines for violations under this section are as follows:

Minimum Standards	Fine for Violating
1. Licenses	
a. A license issued under this chapter shall be current and on public display in an area not restricted from the public travel.	\$200.00
b. Each license issued under this chapter shall be displayed in the place of business or employment of the licensee.	\$100.00
2. Selection Room	
a. Each funeral establishment shall have a clean and neatly arranged selection or display room containing a stock of adult caskets and funeral supplies displayed in full size, cuts, photographs, or electronic images of caskets for persons to view available funeral merchandise or supplies.	\$200.00
b. At no time shall less than eight different adult full-size caskets be on the premises of the funeral establishment.	\$300.00 per casket below the minimum
c. Each funeral establishment shall have a card or brochure in each full-size and cut casket and on each photograph and electronic image of a casket stating the unit price of that casket.	\$100.00 per casket without a card or brochure
3. Rest Room	
a. Each funeral establishment shall have at least one public rest room. Each rest room shall have a nonporous floor, clean walls, and shall be equipped with hot and cold running water, roll or disposable towels or an electronic hand dryer, and necessary lighting for adequate visibility.	\$100.00
b. No public rest room shall be used as a storage area for mops, brooms, or any other such items.	\$100.00

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4. Preparation Room / Branch Location		
i.	One approved embalming table	\$200.00
ii.	Correctly operating embalming equipment	\$200.00
iii.	A selection of all professional equipment necessary for embalming.	\$200.00
iv.	Nonporous floors and walls.	\$200.00
v.	Hot and cold running water.	\$100.00
vi.	A working ventilation fan.	\$200.00
vii.	A suitable container for waste disposal.	\$100.00
viii.	A suitable container for soiled linen or clothing	\$100.00
ix.	Proper drainage.	\$200.00
x.	Embalming room and its contents are kept clean of blood when not in use.	\$200.00
xi.	At no time shall the preparation room be used as a storage area.	\$100.00
xii.	Aspirator, trocar, nasal tube aspirator, aspirating hoses.	\$200.00
5. Embalming Record		
a.	Each funeral establishment in the state shall keep a current record of each human dead body embalmed at the establishment and shall retain such record for a period of not less than four years. The record may be in simple log form and shall contain the name of the deceased, the date of embalming, the time the embalming procedure began and ended, and the signature of the embalmer.	\$200.00
6. Identification of Dead Human Bodies		
a.	Each funeral establishment shall comply with Section 22-19-5 and 395-X-6-.07 by affixing a non-detachable ankle bracelet with identifying information to each dead human body in the possession or custody of the funeral establishment.	\$100.00 per body not identified
7. General Interior		
a.	There are no rotten or deteriorated floor boards or flooring which is subject to public travel.	\$100.00
b.	All outside openings are screened, covered, or otherwise sealed to prevent the entrance of insects or rodents.	\$100.00
c.	Any openings between the preparation room and public areas are sealed to prevent fumes from escaping into those public areas.	\$100.00
d.	All public areas are well maintained with a clean and attractive appearance including the repair and proper maintenance of all walls, ceilings, and floors and the absence of holes, scaling paint, or any other deterioration.	\$200.00
8. General Exterior		
a.	The premises are free of litter and debris.	\$200.00

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b. All areas subject to public travel are free of objects or other matter which could cause possible injury.	\$200.00
c. All roofing or overhead coverings are well maintained to prevent any leaks to the interior of the funeral establishment.	\$200.00
9. Hearse or Funeral Coach	
a. One operating and properly licensed funeral coach or hearse, equipped for transporting human remains in a casket or urn, on the premises.	\$300.00
b. Mortuary Service must have at least one operating and properly licensed motor vehicle, equipped for transporting human remains in a casket or urn.	\$300.00
10. Access	
a. Each funeral establishment shall allow reasonable access to the board, or an authorized agent or representative of the board, for inspecting the facilities of the funeral establishment.	\$400.00
11. Crematory Facilities	
(a) Clean, Orderly and Sanitary	\$100.00
(b) Nonporous floors	\$200.00
(c) Hot and cold running water.	\$100.00
(d) Operating processing equipment	\$200.00
(e) Operational Ventilation unit in conjunction with processer	\$200.00
(f) Necessary equipment and supplies to complete the cremation process	\$200.00
(g) Combustible Container being used	\$200.00 per body not in a combustible container
(h) Combustible Container present	\$200.00
(i) Identifying information on Combustible Container	\$100.00 per container not identified
(j) Operable Refrigeration system within the required constant temperature	\$200.00
(k) Metal Tags with identifying information	\$300.00
(l) Are Containers containing cremains properly identified	\$200.00 per container
12. Cremation Chamber	
(a) Reasonable clean and free of excessive residue	\$100.00
13. Record	
(a) Crematory Operator Certificates Posted	\$100.00
(b) Cremation Authorization meets requirements	\$500.00
(c) State ID Forms being completed	\$500.00

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(d) Cremation Log Current and has required information	\$200.00
14. Pricing Requirements (All Funeral Establishment)	
(a) Does the establishment pricing meet the rules established by the Federal Trade Commission?	\$500.00

(b). If the board finds a licensee guilty of any violation of Chapter 13, Title 34, Code of Alabama 1975 or Chapter 395 of the administrative code, including but not limited to, any violation of subsection (a) and the infractions therein, the board may refuse to grant, refuse to renew, or suspend or revoke a license, after proper hearing and notice to the licensee, upon the licensee being found guilty of any violation of this chapter. The board may levy and collect administrative fines for any violation of this chapter, or the rules or regulations of the board, in an amount not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) for each violation of this chapter for which the licensee has been found guilty. Repeat violators will be subject to further disciplinary action by the Board in accordance with the Code of Alabama, 1975, Title 34 Chapter 13.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-26, 34-13-56, 34-13-111, 34-13-113.

History: New Rule: Filed June 6, 2014; effective July 11, 2014. **Amended:** Filed July 14, 2017; effective October 27, 2017.