

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives DIXON, DeMordaunt, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Division of Occupational and Professional Licenses - State Board of Morticians:
IDAPA 24.08.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No.
24-0801-2000F).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/02/2020. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/30/2020.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Legislative Drafting Attorney - Matt Drake

DATE: October 14, 2020

SUBJECT: Division of Occupational and Professional Licenses - State Board of Morticians

IDAPA 24.08.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 24-0801-2000F)

Summary and Stated Reasons for the Rule

The Division of Occupational and Professional Licenses submits notice of proposed fee rule. According to the Division, the rulemaking republishes the temporary rule chapter that was previously submitted under IDAPA 24.08.01, Rules of the State Board of Morticians. A number of edits to the rules have been made in the nature of deletion of unnecessary, obsolete, or duplicative content. In addition, cross-references to certain Department of Health and Welfare rules have been added in two locations. The Division states that the fee rules do not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Legislature in the prior rules.

Negotiated Rulemaking/Fiscal Impact

The Division notes that negotiated rulemaking was conducted. The Division also confirms that the rulemaking is not anticipated to have any fiscal impact on the general fund.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 54-1106 and 54-1107, Idaho Code.

cc: Division of Occupational and Professional Licenses - State Board of Morticians
Russ Barron

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-2000F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1106 and 54-1107, Idaho Code.

PUBLIC HEARING SCHEDULE: Opportunity for presentation of oral comments concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the purpose of the proposed rulemaking:

This proposed rulemaking re-publishes the following existing temporary rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 24.08.01, rules of the State Board of Morticians:

IDAPA 24.08

- 24.08.01, *Rules of the State Board of Morticians.*

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. Fees are established in accordance with Section 54-1115, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	\$85
Funeral Establishment	\$125
Crematory Establishment	\$200
Mortician	\$85
Inactive License	\$40
Resident Trainee	\$50
Application Fee	\$100
Certificate of Authority	\$50

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2021 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 1, 2020 [Idaho Administrative Bulletin, Vol. 20-4](#), and the meeting was held on July 7, 2020. Comments were provided by stakeholders, considered by the Board, and incorporated into the proposed rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rob McQuade at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 1st day of September, 2020.

Russell Barron
Administrator
Division of Occupational and Professional Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
ibol@ibol.idaho.gov

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

000. LEGAL AUTHORITY.

The following rules have been adopted by the Idaho State Board of Morticians and the Chief, Division of Occupational and Professional Licenses in accordance with the provisions of Section 54-1106 and 54-1107, Idaho Code. ()

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.08.01, “Rules of the State Board of Morticians.” ()

002. -- 099. (RESERVED)

100. MEETINGS.

The board shall hold meetings no less than annually at such times and places as determined by the board. The annual election of chairman will be held during the first meeting of each fiscal year. ()

101. -- 249. (RESERVED)

250. RESIDENT TRAINEE.

A Resident Trainee is a person who is licensed to train, under the direct and immediate supervision of a sponsoring mortician, to become a licensed mortician or funeral director. ()

01. Training Requirements. ()

a. Full-time employment requires that the Resident Trainee be employed for at least thirty-six (36) hours per week for fifty (50) weeks per year within the Idaho mortuary where the Resident Trainee’s sponsoring mortician is practicing. ()

i. At least three-fourths (3/4) of the Resident Trainee’s training must consist of the sponsoring mortician instructing and demonstrating practices and procedures to increase the Resident Trainee’s knowledge of the service performed by a mortician or a funeral director as defined in Chapter 11, Title 54, Idaho Code. ()

ii. For the balance of the required hours, the sponsoring mortician, or his licensed appointee, must be immediately available to consult with the Resident Trainee. ()

b. All training must occur within Idaho. ()

c. A Resident Trainee shall not sign a death certificate. ()

02. Sponsoring Mortician. A sponsoring mortician must: ()

a. Be an Idaho-licensed mortician who practices in Idaho. ()

b. Not serve as the sponsoring mortician for more than two (2) “Resident Trainees at any given time.” ()

c. Supervise and instruct the Resident Trainee, and provide demonstrations for and consultations to the Resident Trainee, as described in Subsection 250.01, of this rule. ()

d. Complete and co-sign, with the Resident Trainee, quarterly and final reports. These reports must be completed on forms approved by the Board and document the information described in Subparagraphs 250.04.c. and 250.04.d., of this rule. The sponsoring mortician must promptly submit a report after the period of time covered by the report ends. ()

e. Promptly notify the Board in writing if a Resident Trainee’s training is terminated, including termination due to interruption as specified in Subsection 250.05, of this rule and submit a final report documenting training up to the termination date. ()

03. Eligibility to Be Licensed. For purposes of accounting for total cumulative training as a Resident Trainee, the sponsoring mortician must notify the Division at the beginning and termination of the training period. When a Resident Trainee completes training, the Resident Trainee must complete the remaining qualifications for licensure as a mortician or funeral director within the following three (3) years or show good reason for further delay. ()

251. -- 299. (RESERVED)

300. APPLICATIONS AND EXAMINATION.

In order to be admitted to the examination, the applicant must submit a completed application on forms provided by the Division and provide all requested documentation including proof of having completed the training period as prescribed by law and these rules, and meet the specific requirements for license as set forth in Section 54-1109 of the Idaho Code. ()

301. -- 324. (RESERVED)

325. APPROVED EXAMINATION.

Applicants for licensure shall successfully pass the examinations set forth below. ()

01. Mortician Examination. The Mortician examination shall consist of: ()

a. All sections of the International Conference of Funeral Service Examining Board's National Board Examination; and ()

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. ()

02. Funeral Director. The funeral director examination shall consist of: ()

a. The Arts section of the State Based Examination conducted by the International Conference of Funeral Service Examination Board; and ()

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. ()

03. Grading. The required average grade to pass the examination is seventy-five percent (75%). Provided further, that where the applicant has a score of less than seventy percent (70%) in one (1) or more subjects, such applicant shall not be passed, notwithstanding that his average mark may be higher than seventy-five percent (75%), however, should the applicant apply for reexamination he may, by board approval, be required to retake only that portion of the examination which he failed in previous examination. ()

326. -- 379. (RESERVED)

380. INACTIVE LICENSE.

01. Request for Inactive License. Persons holding an unrestricted mortician or funeral director license in this state may apply for inactive status by making written application to the Board on a form prescribed by the Board and paying the established fee. ()

02. Inactive License Status. ()

a. If a licensee holds a certificate of authority and places their license on inactive status, their certificate of authority expires as of the date their license becomes inactive. ()

b. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. ()

03. Return to Active License Status. An inactive license holder may convert from inactive to active license status by: ()

- a. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and ()
- b. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ()
- c. An inactive licensee who held a certificate of authority at the time their license became inactive who returns to active license status pursuant to this rule may be reissued a certificate of authority by paying the renewal fee for the certificate of authority. ()

381. -- 409. (RESERVED)

410. CONTINUING EDUCATION.

01. Continuing Education (CE) Requirement. Each Idaho licensed mortician and funeral director must successfully complete a minimum of eight (8) hours of continuing education annually for license renewal. ()

- a. Each licensee must certify on their renewal application form that compliance with the annual CE requirements has been met during the previous twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. ()
- b. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. ()
- c. Prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. ()

02. Credit. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Only four (4) hours of the required continuing education may be from correspondence, computer on-line, or self-study in each renewal period. The remaining hours must be in an interactive setting that provides the opportunity for participants to communicate directly with the instructor. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. ()

a. A licensee may carryover a maximum of eight (8) hours of continuing education to meet the next year's continuing education requirement. Only four (4) hours may be carried over from correspondence, computer on-line, or self-study. ()

03. Providers/Sponsors/Subjects of Continuing Education. The continuing education must be provided by a college or university, a national or state association, trade group, or other person or entity approved by the Board and must be germane to the license held. Continuing education may include, but shall not be limited to, the following subject areas: ()

- a. Public Health and Technical. This includes, but is not limited to, embalming, restorative art, after care, organ procurement, sanitation, and infection control. ()
- b. Business Management. This includes, but is not limited to, computer application, marketing, personnel management, accounting, or comparable subjects. ()
- c. Social Science. This includes, but is not limited to, communication skills (both written and oral), sociological factors, counseling, grief psychology, funeral customs, or comparable subjects. ()

d. Legal, Ethical, Regulatory. This includes, but is not limited to, OSHA (Occupational Safety and Health Association), FTC (Federal Trade Commission), ethical issues, legal interpretations, or comparable subjects. ()

04. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. ()

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for a licensee who fails to certify compliance with CE requirements. A licensee who makes a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. ()

06. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health or other good cause. Each licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Request for special exemption must be made prior to licensure renewal. ()

411. -- 424. (RESERVED)

425. MAINTENANCE OF PRE-NEED TRUST ACCOUNT FEES. Maintenance of pre-need trust accounts fee. Pursuant to Section 54-1134(4), Idaho Code, a fee not to exceed ten percent (10%) of the annual earned interest income may be charged for maintenance of pre-need trust accounts. ()

426. -- 449. (RESERVED)

450. FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT. Applicants shall submit a board approved application form. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure. A walk-through inspection of the establishment must be arranged and completed within six (6) months of the Board's review of the application or the application will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. ()

01. Change in Ownership or Location. Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. ()

02. Funeral Establishment. All funeral establishments shall be required to provide each of the following: ()

a. An operating room and necessary equipment for embalming; ()

b. A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; ()

c. A chapel where funeral or other religious ceremonies may be held; and ()

d. A room for viewing and visitation. ()

03. Funeral Firm. Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following: ()

a. The price of the service that the person or persons have selected and what is included therein. ()

b. The prices of each of the supplementary items of service and/or merchandise requested. ()

c. The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. ()

d. The method of payment. ()

e. If the quoted price includes a basic component of a funeral or a part thereof which is not desired, then a credit thereof should be granted. ()

04. Crematory Establishment. All crematory establishments shall be required to provide each of the following: ()

a. Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, and appropriate purpose-built vessel with documented validation for sterilization. ()

b. One (1) set of plans approved by the local building department for the proposed new construction or remodeling where the retort is to be located. ()

451. (RESERVED)

452. MINIMUM STANDARDS.

01. Reasonable Sanitation and Safety Required. No license will be issued to operate a funeral establishment or crematory unless it is apparent that the establishment or crematory can and will be operated in a reasonably sanitary and safe manner and that all pertinent federal, state, and local permits have been obtained when operating an alkaline hydrolysis retort. ()

02. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, nor is actual cremation of such a body to be commenced, unless the county coroner in the county in which the death occurred gives written authorization to cremate the body. ()

03. Embalming. If a dead human body is to be held longer than twenty-four (24) hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of. ()

04. Casket Not Necessary. It is not necessary for the body to be in a casket for cremation to take place. ()

a. This is not to be construed to mean that the crematory must cremate without a casket; and ()

b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons. ()

453. RECEIPT FOR BODIES TO BE CREMATED.

The following must be performed by the operator of a crematory upon receipt of a human body for cremation: ()

01. Provide a Receipt. A receipt must be delivered to the licensed mortician or funeral director, his agent, or another person who delivers such body to the crematory. ()

02. Contents of Receipt. The receipt must show: ()

a. The name of the decedent whose body was received; and ()

b. The date on which that body was received; and ()

- c. The place where that body was received; and ()
- d. The name and address of the funeral establishment from whom that body was received; and ()
- e. The name and address of the person, or the names and addresses of the persons, if more than one (1), who actually delivers the body. ()

454. RECORDS OF BODIES.

01. Content of Record. Each funeral establishment and crematory must maintain a record of each burial, cremation, or other disposition of human remains, disclosing: ()

- a. The name of the decedent; and ()
- b. The name and address of the person, or names and addresses of the persons if more than one (1), authorizing the burial, cremation, or other disposition of that body; and ()
- c. A statement as to whether or not the body was embalmed; and ()
- d. The date of the burial, cremation, or other disposition of that body; and ()
- e. The subsequent disposal of any cremated remains. ()

455. RESPONSIBILITY, INSPECTION, AND CONFIDENTIALITY OF RECORDS.

01. Responsibility for Record. Records regarding the burial, cremation, and other disposition of human bodies must be made as soon as reasonably possible after the burial, cremation, or other disposition and must be dated and signed by the licensed mortician or funeral director who supervised or was otherwise directly responsible for the burial, cremation, or other disposition. ()

02. Inspection of Records. Records regarding the receipt, burial, cremation, and other disposition of human bodies must be maintained at the funeral establishment and crematory and be open for inspection at any reasonable time by the Board or its designated representatives. ()

456. -- 499. (RESERVED)

500. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	\$85
Funeral Establishment	\$125
Crematory Establishment	\$200
Mortician	\$85
Inactive License	\$40
Resident Trainee	\$50
Application Fee	\$100
Certificate of Authority	\$50

()

501. DISCIPLINE.

The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensee for each violation of Section 54-1116, Idaho Code. ()

502. -- 999. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Division of Occupational and Professional Licenses

Agency Contact: Rob McQuade **Phone:** 208-334-3233

Date: August 19, 2020

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 24.08.01, Rules of the State Board of Morticians

Fee Rule Status: X **Proposed** _____ **Temporary**

Rulemaking Docket Number: 24-0801-2000F

STATEMENT OF ECONOMIC IMPACT:

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	\$85
Funeral Establishment	\$125
Crematory Establishment	\$200
Mortician	\$85
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Resident Trainee	\$50
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