



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Funeral Service Examiners TITLE-SERIES: 6-07
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 6-07 Fee Schedule

PRIMARY CONTACT

NAME: WV Board of Funeral Service Examiners
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CITE STATUTORY AUTHORITY: § 30-1-6 et. seq.

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

This Rule establishes the fee schedule for licenses for funeral service licensees, crematory operator permits, courtesy cards, apprentice, funeral homes and crematories. The Board is authorized to set fees for the above-named licenses.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/30/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/30/2021

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Mailed postcards to all licensees and posted on the Board's web page - Proposed Legislation for 2022.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This revision is to increase most fees across the board. Fees have not been increased since 2008 and, to maintain the Board's financial stability, these increases are necessary. At present, the Board is utilizing a part time Executive Director, a part time Office Manager and a part time inspector. The Executive Director and Office Manager's positions will need to be filled with permanent, full time employees with benefits approximately by the start of 2023, due to pending retirements. The Board will also need to hire an additional part time inspector as soon as possible as one part time inspector cannot cover the entire state. All it takes is one complaint, if it goes to hearing, to create a significant impact on the Board's financial stability. As mandated by the Legislature, professional licensing boards are required to be financial self-sufficient. Also, the Legislative Performance Evaluation & Research Division highly recommends that a board maintain at least one to two times cash balance reserves for any possible extraordinary expenses. Therefore, the revenue must increase in order to maintain a financially sustainable cash balance.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Fees have not been increased since 2008. In order to maintain financial stability of the board, these increases are absolutely necessary.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

No economic impact on state government.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

Unless the increases are approved, the Board's special revenue accounts will suffer greatly. The Board must hire full time employees by start of 2023 with benefits due to pending retirements.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

No effect on anyone other than the Board's licensees.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			\$200,000.00
Personal Services			\$130,000.00
Current Expenses			\$70,000.00
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			\$232,000.00

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

Licenses are issued biennially. These increases will assist the Board in maintaining financial stability.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Grady M Bowyer -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

6CSR7

TITLE 6
LEGISLATIVE RULE
WV BOARD OF FUNERAL SERVICE EXAMINERS

SERIES 7
FEE SCHEDULE

6-7-1. General.

1.1. Scope. - This Rule establishes a schedule for all fees paid to the West Virginia Board of Funeral Service Examiners for initial licensure for funeral service licensees, apprentice registration, crematory operators, courtesy card registration, funeral homes and crematories. All renewal fees, inspection fees, continuing education providers registration and program fees and other miscellaneous fees due the West Virginia Board of Funeral Service Examiners are also in this Rule. All fees are non-refundable.

1.2. Authority. - WV Code § 30-1-6 et. seq.

1.3. Filing Date. - ~~April 1, 2021~~

1.4. Effective Date. - ~~April 1, 2021~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration from ~~April 1, 2026~~; August 1, 2032.

§ 6-7-2. Definitions.

2.1. "Apprentice" means a person registered under the provisions of 6CSR1 who is working as a funeral service licensee under the direct supervision of a licensed funeral service licensee.

2.2. "Basic services fee" means charges for the services of the funeral director and staff for completing the following tasks: conducting of the arrangements conference, securing of necessary permits, preparation of notices, sheltering of human remains, coordination of arrangements with the cemetery, crematory, retail sellers, or other third party. The basic services fee may include overhead costs, such as parking lot and other common areas, insurance, staff, taxes, and other fees the funeral establishment pays.

2.3. "Board" means the WV Board of Funeral Service Examiners.

2.4. "Branch funeral establishment" means a funeral establishment which is owned one hundred percent by, operated by, is a subsidiary of, or otherwise financially connected or controlled by a licensed main funeral establishment. If the preparation of dead human bodies by embalming is done at the main establishment and the main establishment is within 60 miles of the branch facility, then the equipment for the preparation of dead human bodies is not required at the branch facility.

2.5. "Crematory operator" means a person certified by the board to operate a crematory.

2.6. "Courtesy Card" holder means a person from another state who may conduct funerals, prepare death certificates, and bury a dead human body for an out-of-state funeral establishment, within the boundaries of the state of West Virginia.

2.7. "Funeral Establishment" means a place of business maintained and operated and devoted to such

activities that are incident, convenient, or related to the preparation and arrangements, financial or otherwise, for the embalming, funeral, transportation, burial or other disposition of dead human bodies.

2.8. "Funeral home," "funeral chapel," "funeral services," or "funeral parlor" means a funeral establishment which offers funeral services and preparation for the disposition of dead human bodies. Funeral homes in existence prior to the effective date of this rule, which use the term "mortuary" in the business name, may continue to do so.

2.9. "Funeral service licensee" means a person who has met the requirements to be a funeral director and an embalmer. Upon the effective date of this rule, where ever the terms which refer to the act of being a funeral director and an embalmer are used, the term "funeral service license" or "funeral service licensee" shall apply. Where ever the term "embalmer" is used, the term "funeral service licensee" shall apply. Where ever the term "funeral director" is used, the term "funeral service licensee" shall also apply but not replace the term "funeral director."

2.10. "Inactive Licensee" means an individual not actively practicing in the funeral service profession and are exempt from obtaining continuing education. The individual must renew their inactive status biennially to maintain an inactive status.

2.11. "Licensee" means a person who holds a an embalmer's license, a funeral director's license, or a funeral establishment license issued by this Board.

2.12. "Main funeral establishment" means a primary funeral establishment.

2.13. "Mortuary service" means a funeral establishment devoted strictly to the preparation and embalming of dead human bodies, and may also include the financial arrangements for the embalming of dead human bodies. A trade service or mortuary service may not offer to the public funeral services under any circumstance.

2.14. "Registrant" means a person who holds a certificate of registration for apprenticeship or a courtesy card issued by this Board.

§ 6-7-3. Application

This rule applies to all funeral service licensees, crematory operators, courtesy cards, apprentice, main and branch funeral homes and crematories

§ 6-7-4. Fee schedule

The following fees are for the initial license / registrant fees and are non-refundable.

4.1. All fees are for a two (2) year license and are non-refundable.

4.1.1. Main funeral home - the initial license fee is ~~five hundred dollars (\$500.00)~~ seven hundred dollars (\$700.00).

4.1.2. Branch funeral home - the initial license fee is ~~three hundred fifty dollars (\$350.00)~~ five hundred fifty dollars (\$550.00).

4.1.3. Crematory - the initial license fee is ~~three hundred fifty dollars (\$350.00)~~ seven hundred dollars (\$700.00).

4.1.4. Funeral Services Licensee - the initial license fee is ~~one hundred sixty dollars (\$160.00)~~ three hundred dollars (\$300.00).

4.1.5. Apprentice - the initial license fee is ~~one hundred seventy-five dollars (\$175.00)~~ three hundred dollars (\$300.00).

4.1.6. Crematory Operator - the initial license fee is ~~one hundred twenty dollars (\$120.00)~~ three hundred dollars (\$300.00).

4.1.7. Courtesy Card - the initial license fee is ~~three hundred dollars (\$300.00)~~ five hundred dollars (\$500.00).

4.1.8. Mortuary Service - the initial license fee is ~~four hundred dollars (\$400.00)~~ seven hundred dollars (\$700.00).

4.2. The following fees are for biennial renewal fees and are non-refundable.

4.2.1. Main funeral home - the biennial renewal fee is ~~four hundred dollars (\$400.00)~~ six hundred dollars (\$600.00).

4.2.2. Branch funeral home - the biennial renewal fee is ~~two hundred seventy-five dollars (\$275.00)~~ four hundred seventy-five dollars (\$475.00).

4.2.3. Crematory - the biennial renewal fee is ~~three hundred fifty dollars (\$350.00)~~ six hundred dollars (\$600.00).

4.2.4. Funeral Services Licensee - the biennial renewal fee is ~~two hundred dollars (\$200.00)~~ three hundred dollars (\$300.00).

4.2.5. Apprentice - the biennial renewal fee is ~~one hundred fifty dollars (\$175.00)~~ two hundred fifty dollars (\$250.00).

4.2.6. Crematory Operator - the biennial renewal fee is ~~one hundred dollars (\$120.00)~~ three hundred dollars (\$300.00).

4.2.7. Courtesy Card - the biennial renewal fee is ~~three hundred dollars (\$300.00)~~ five hundred dollars (\$500.00).

4.2.8. Mortuary Services - the biennial renewal fee is ~~four hundred dollars (\$400.00)~~ five hundred fifty dollars (\$550.00).

4.2.9. ~~Delinquent~~ Late fee on or after July 1 of the renewal year - ~~one hundred fifty dollars (\$150.00)~~ two hundred fifty dollars (\$250.00) plus the renewal fee.

4.2.10. Reinstatement fee for delinquent license after ninety (90) days - ~~three hundred fifty dollars (\$350.00)~~ plus the renewal fee.

§ 6-7-5. INSPECTIONS

This section establishes the fees for re-inspections of facilities.

5.1. Out of compliance inspection fee is ~~two hundred fifty dollars (\$250.00)~~ three hundred fifty

dollars (\$350.00)

5.2. Missed appointment inspection fee - first occurrence is ~~two hundred fifty dollars (\$250)~~ three hundred fifty dollars (\$350.00).

5.3. Missed appointment inspection fee - subsequent occurrences is ~~three hundred dollars (\$300.00)~~ four hundred dollars (\$400.00).

5.4. Facility after undergoing renovations is ~~two hundred fifty dollars (\$250.00)~~ three hundred fifty dollars (\$350.00).

5.5. Newly constructed or purchased by new owner is ~~two hundred fifty dollars (\$250.00)~~ three hundred fifty dollars (\$350.00).

5.6. Fails to renew license before reinstatement is ~~three hundred dollars (\$300.00)~~ four hundred dollars (\$400.00).

§ 6-7-6. OTHER FEES

6.1. Returned check fee is twenty five dollars (\$25.00).

6.2. Inactive license fee is fifty dollars (\$50.00).

6.3. Reactivation of Inactive License is ~~ten dollars (\$10.00)~~ twenty five dollars (\$25.00) plus biennial renewal fee.

6.4. State Law Examination is ~~two hundred fifty dollars (\$250.00)~~ three hundred dollars (\$300.00).

6.5. Law Examination Study packet is ~~seventy-five dollars (\$75.00)~~ one hundred dollars (\$100.00).

6.6. Apprentice Handbook Replacement is ~~seventy-five dollars (\$75.00)~~ one hundred dollars (\$100.00).

6.7. Continuing Education Provided Annual Fee is one hundred fifty dollars (\$150.00).

6.8. Reinstatement of Crematory training provider after revocation is ~~two hundred dollars (\$200.00)~~ three hundred dollars (\$300.00).

6.9. Re-issuance of license, pocket card, registration or courtesy card is ~~twenty-five dollars (\$25.00)~~ forty dollars (\$40.00).

6.10. Reciprocal license background check is ~~twenty-five dollars (\$25.00)~~ forty dollars (\$40.00).

6.11. CE program within forty-five (45) days of presentation is fifty dollars (\$50.00).

6.12. Per page copying plus shipping / handling of documents (FOIA) is twenty-five(\$0.25).

6.13. Change of License-in-charge or Operator-in-Charge is twenty-five dollars (\$25.00).

6.14. List of licensees / facilities is one hundred fifty dollars (\$150.00).

6.15. License Verification is thirty dollars (\$30.00).