

**ALABAMA BOARD OF FUNERAL SERVICE
ADMINISTRATIVE CODE**

**CHAPTER 395-X-4
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.

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 one hundred dollars (\$100) 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 re-inspected. 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 re-inspection 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 re-inspection.

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. **Amended:** Published July 29, 2022; effective September 12, 2022.

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.

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 September 12, 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, 34-13-112.

History: New Rule: Filed September 12, 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, 34-13-110.

History: New Rule: Filed September 12, 2017; effective October 27, 2017.

395-X-4-.07 **Closure Of Funeral Establishment.**

(1) A licensed funeral establishment may voluntarily close for operation by meeting the following requirements.

(a) The establishment must declare its intent to cease operation on a form prescribed by the Board.

(b) The establishment shall work with the Board to establish an effective date of closure.

(c) Prior to the effective date of closure, the establishment shall:

1. file all death certificates with the Department of Health;
2. complete all arrangements for remains in the establishment's custody and care, including disposal of all cremated remains, in accordance with Chapter 13 of Title 34 of the Code of Ala. 1975;
3. ensure that no remains are present or in the custody and care of the establishment;
4. account for and transfer (if necessary) all preneed contracts;
5. take any other action necessary to protect consumers as determined and directed by the Board.

(d) The establishment shall surrender the establishment license issued by the Board.

(e) Upon approval of the closure by the Board, the establishment shall cease and desist from all operation related to any activity regulated by Title 34, Chapter 13, Code of Ala. 1975, and by rule of the Board.

(2) Because statute requires that every establishment shall be operated under the full charge, control, and supervision of a managing funeral director and managing embalmer, if either the managing funeral director and/or the managing embalmer of record for the establishment removes their license from the establishment or the position otherwise becomes vacant, the Board may designate the establishment as closed subject to the following procedures:

(a) Within 72 hours of a vacancy in either or both of the establishment's licensed managing positions, the establishment must provide the Board with completed managing affirmation letter(s) (in a form prescribed by the Board) naming a replacement for each vacancy.

(b) The establishment may temporarily continue operation during the 72-hour period only under the direction of a licensed funeral director and licensed embalmer who the establishment shall appoint as the "temporary managing funeral director" or "temporary managing embalmer," as appropriate.

1. The establishment may not operate until it has certified to the Board (on a form to be prescribed by the Board) that a temporary licensed manager corresponding to the appropriate vacancy has been appointed.

2. A temporary licensed manager shall be responsible for the operations of the establishment corresponding to his or her respective area of practice to the same extent as a permanent licensed manager, including potential supervisory liability for violations of Chapter 13 of Title 34 of the Code of Ala. 1975.

3. A temporary licensed manager may simultaneously hold a position as a permanent licensed manager at another funeral establishment; provided, nothing in this subsection alters the statutory prohibition that an individual cannot serve as a permanent licensed manager for more than one funeral establishment.

(c) The establishment shall cease and desist from all operation as a funeral establishment if the managing affirmation letter(s) prescribed by the Board is not received within 72 hours of a vacancy in either or both of the establishment's licensed managing positions.

(3) The Board may serve a Notice of Closure listing the establishment license number and the effective date of closure to any establishment subject to closure pursuant to the foregoing provisions. As of the effective date of closure, the establishment must cease and desist from all operation related to any activity regulated by Chapter 13 of Title 34 of the Code of Ala. 1975, or by rule of the Board.

(4) Upon a closure approved by the Board pursuant to this rule, the Board shall change the designation of the establishment's license from "active" to "closed."

(5) An establishment that has been designated as closed may reopen by:

(a) complying with all action required in any Corrective Action Notice issued by the Board in conjunction with the establishment's closure; and

(b) receiving written approval from the Board either rescinding the Notice of Closure or approving an application for a new establishment license in accordance with Title 34, Chapter 13 and rule of the Board, as appropriate.

(6) An establishment aggrieved by any action taken pursuant to this rule may request a public hearing before the board to appeal the action of the board. The request for a public hearing shall be submitted to the Board in writing within 14 calendar days after

the action to be challenged was taken. Upon request, the Board shall schedule a hearing and provide the establishment with at least 20 days' notice of the public hearing by United States certified mail.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, §§34-13-23, 34-13-26, 34-13-110, 34-13-112.

History: New Rule: Published October 31, 2024; effective December 15, 2024.

395-X-4-.08 **Change Of Ownership.**

(1) A funeral establishment must immediately report to the Board:

(a) Any transfer of a 10% or greater ownership interest;

(b) Any series of transfers within a one-year period that accrue a 10% or greater ownership interest; or

(c) Any transfer that results in an individual or entity controlling or losing control of a 50% or greater total ownership interest.

(2) All changes of ownership are to be reported on a form prescribed by the Board.

(3) An establishment that fails to submit a change of ownership form to the Board within 15 calendar days of any of the preceding may be subject to disciplinary action.

Author: Charles M. Perine

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

History: New Rule: Published October 31, 2024; effective December 15, 2024.