

NOTICE OF INTENT TO ADOPT PROPOSED AMENDMENTS TO THE
GEORGIA STATE BOARD OF FUNERAL SERVICE,
CHAPTER 250-6 *ESTABLISHMENT/CREMATORY LICENSURE AND
REGULATIONS*,
RULE 250-6-.09 *RESPONSIBILITIES OF THE FUNERAL DIRECTOR IN FULL &
CONTINUOUS CHARGE*.
AND NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia State Board of Funeral Service (hereinafter "Board") proposes a new rule to the Georgia State Board of Funeral Service Rules, Chapter 250-6, *Establishment/Crematory Licensure and Regulations*, Rule 250-6-.09 *Responsibilities of the Funeral Director in Full & Continuous Charge*, (hereinafter "proposed rule amendments"). The Board voted to post this notice of adoption and hearing at its board meeting on September 15, 2009.

The new rule details the responsibilities of the Funeral Director in Full & Continuous Charge of a funeral establishment or crematory.

This notice, together with an exact copy of the proposed new rule and a synopsis of the proposed new rule, is being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the proposed new rule, and a synopsis of the proposed new rule may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except official State holidays, at the Office of the Secretary of State, Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia 31217. These documents will also be available for review on the Georgia State Board of Funeral Service's web page at <http://www.sos.ga.gov/plb/funeral/>. Copies may also be requested by contacting the Georgia State Board of Funeral Service office at 478-207-2440.

A public hearing will be held at 9:30 a.m. on December 8, 2009 at the office of the Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia to provide the public an opportunity to comment upon and provide input into the proposed new rule. At the public hearing anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to 5 minutes per person. Additional comments should be presented in writing. Written comments are welcome. Such written comments must be legible and signed, should contain contact information for the maker (address, telephone number and/or facsimile number, etc.) and be actually received in the office prior to the close of business (5:00 p.m.) on December 1, 2009. Written comments should be addressed to Randall D. Vaughn, Division Director, Secretary of State, Professional Licensing Boards Division, Georgia State Board of Funeral Service, 237 Coliseum Drive, Macon, Georgia 31217. FAX: 478-314-9128.

The proposed new rule will be considered for adoption by the Georgia State Board of Funeral Service at its meeting on December 8, 2009 scheduled to begin at 10:00 a.m. at the office of the Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia. The Georgia State Board of Funeral Service has the authority to adopt the new rule pursuant to authority contained in O.C.G.A. §§ 43-18-1(12); 43-18-23; 43-18-46; 43-18-71.

The Board will consider at its meeting on December 8, 2009 whether the formulation and adoption of this proposed new rule imposes excessive regulatory costs on any licensee or entity and whether any cost to comply with the proposed rule amendment could be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-18-1(12); 43-18-23; 43-18-46; 43-18-71.

Additionally, at its meeting on December 8, 2009, the Board will consider whether it is legal or feasible in meeting the objectives of O.C.G.A. §§ 43-18-1(12); 43-18-23; 43-18-46; 43-18-71 to adopt or implement differing actions for businesses as listed at O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The Board will consider whether the formulation and adoption of this proposed new rule will impact every licensee in the same manner when small businesses are independently owned and operated and not dominant in the field of funeral service.

For further information, contact the Board office at 478-207-2440.

This notice is given in compliance with O.C.G.A. § 50-13-4.

This 23rd day of October, 2009.

Randall D. Vaughn
Division Director
Professional Licensing Boards

Posted: October 23, 2009

SYNOPSIS OF PROPOSED AMENDMENTS TO THE
GEORGIA STATE BOARD OF FUNERAL SERVICE RULES,
CHAPTER 250-6 *ESTABLISHMENT/CREMATORY LICENSURE AND
REGULATIONS*, RULE 250-6-.09 *RESPONSIBILITIES OF THE FUNERAL DIRECTOR
IN FULL & CONTINUOUS CHARGE*.

Rule 250-6-.09 *Responsibilities of the Funeral Director in Full & Continuous Charge* is hereby proposed for amendment and adoption as amended.

Purpose: The purpose of the proposed new rule is to detail the responsibilities of the Funeral Director in Full & Continuous Charge of a funeral establishment or crematory.

Main Features: The main features of the proposed new rule are to establish clear and detailed responsibilities for the Funeral Director in Full & Continuous Charge of a funeral establishment or crematory.

DIFFERENCES BETWEEN THE EXISTING RULE AND
THE PROPOSED AMENDMENTS TO THE
GEORGIA STATE BOARD OF FUNERAL SERVICE,
CHAPTER 250-6 *ESTABLISHMENT/CREMATORY LICENSURE AND
REGULATIONS*, RULE 250-6-.09 *RESPONSIBILITIES OF THE FUNERAL DIRECTOR
IN FULL & CONTINUOUS CHARGE*.

[Note: underlined text is proposed to be added; lined-through text is proposed to be deleted.]

250-6-.09 Responsibilities of the Funeral Director in Full & Continuous Charge.

(1) The Funeral Director in Full & Continuous Charge shall:

(a) Ensure that the establishment is licensed properly with the Board and maintains the license in active status at all times, as required by OCGA §§ 43-18-5(a), 43-18-46(25), & 43-18-73.

(b) Ensure that the funeral establishment complies with the provisions of OCGA § 43-18-70 and Rule 250-6-.06.

(c) Ensure that the crematory complies with the provisions of OCGA § 43-18-72 and Rule 250-6-.07.

(d) Ensure that every individual who will serve as embalmer, director, or apprentice is licensed properly with the Board and maintains the appropriate license at all times while they are in the employ of the establishment, as required by OCGA §§ 43-18-5(a) & 43-18-46(18), (25)

(e) Ensure that no one employed by or representing the establishment gives or contracts to give any person or business entity anything of value to induce such person or entity to persuade someone to use the services of the establishment or any embalmer or director employed by the establishment. Such practice is prohibited by OCGA §§ 43-18-5(d) & 43-18-46(7).

(f) Ensure that no one employed by or representing the establishment accepts anything of value to influence, persuade, or suggest to family members as to where a body should or should not be buried. Such practice is prohibited by OCGA § 43-18-5(e).

(g) Ensure that all deceased human bodies are released to the legally authorized person upon request of that person, in accordance with OCGA §§ 43-18-5(f) & 43-18-46(16).

(h) Ensure that every deceased body serviced by the establishment is properly tagged prior to interment or cremation and that all cremated remains are labeled in accordance with the provisions of OCGA § 43-18-8(a).

(i) Ensure that the certificate of cremation is completed with notarized signature and presented to the legally authorized person at the time of delivery or release, in accordance with OCGA § 43-18-8(b).

(j) Ensure that the licenses or wall certificates issued by the Board to the establishment and all licensed people employed by the establishment are posted in a conspicuous place in the establishment, as required by OCGA § 43-18-44.

(k) Ensure that the name of the proper embalmer and funeral director is listed on all death certificates. If the name of the embalmer and/or funeral director is signed on the death certificate, it must be the actual signature of the person, in accordance with OCGA § 43-18-46(4), (9).

(l) Ensure that charges for merchandise and services rendered are in compliance with the General Price List, casket price list, outer burial container list, or the funeral services contract price list, as required by 16CFR453.2 & OCGA § 43-18-46(17).

(m) Ensure that the General Price List is provided upon request, regardless of the reason for the request, as required by 16CFR453.2.

(n) Ensure that a written, signed contract is provided to every customer upon completion of the contract negotiation and is available at the establishment for a period of 3 years.

(o) Ensure compliance with the terms of the funeral services contract, as required by OCGA § 43-18-46(12).

(p) Ensure that all statements made regarding services, merchandise, and legal requirements are accurate, in accordance with OCGA § 43-18-46(11), (23). The FDFCC

must ensure that all employees are educated regarding services, merchandise, and legal requirements so as to provide accurate information and to avoid misleading the public.

(r) Safeguard the decedent's dignity, right to privacy, or right to confidentiality, unless compelled by law to do otherwise, in accordance with OCGA § 43-18-46(13).

(s) Ensure that assigned benefits in excess of the charges incurred are remitted to the assignee of the deceased within 10 working days of the receipt of the assigned funds, as required by OCGA § 43-18-46(15), (26).

(t) Ensure that the establishment refrains from involvement in burial societies, burial associations, burial certificate plans, or burial membership plans, which are prohibited by OCGA § 43-18-46(19).

(u) Ensure that all employees and agents of the establishment refrain from soliciting as defined in OCGA § 43-18-1(21). Soliciting is prohibited by OCGA § 43-18-46(20).

(v) Ensure that all apprenticeship service reports and affidavits of embalming and directing for apprentices of the establishment are accurate and signed by the appropriate supervisor(s), in accordance with OCGA §§ 43-18-46(21) & 43-18-52.

(w) Ensure that apprentices of the establishment work under the direct supervision of the supervisor(s) on record with the Board, in accordance with OCGA § 43-18-50. It is mandatory that the FDFCC ensure that any changes in the supervision of apprentices are reported on the application provided by the Board and are approved by the Board prior to the apprentices working under the new supervisor(s).

(x) Ensure that the Board is notified upon the termination of an apprentice employed by the establishment.

(y) Ensure that the establishment complies with all federal, state, and local regulations as listed in OCGA § 43-18-46(22).

(z) Ensure that discrimination, as described in OCGA § 43-18-46(24), is not tolerated in the establishment.

(aa) Ensure that all personal properties obtained from dead human remains are safeguarded and disposed of as directed by the legally authorized person, in accordance with OCGA § 43-18-46(25).

(bb) Ensure that all employees of the establishment conduct themselves in a professional, moral, ethical manner, and report any misconduct to the Board promptly with an explanation of any disciplinary action taken, as required by OCGA § 43-18-46(14), (27).

(cc) Ensure that the prohibition of activities by a funeral director who is also a coroner or minister, found in OCGA § 43-18-46(28), is adhered to by employees of the establishment with such dual roles.

(dd) Ensure that all embalmers and funeral directors employed by the establishment comply with the provisions of OCGA § 43-18-55 and 43-18-56, regarding continuing education.

(ee) Ensure that the FDFCC complies with the responsibilities detailed in OCGA § 43-18-71 by assuming full responsibility for the supervision and operation of the funeral establishment, acting as FDFCC only for the establishment for which the FDFCC was approved, and spending a minimum of 40 hours per week in the employ and operation of the establishment and being accessible and available to the community.

(ff) Ensure that the Board is notified within 5 days of the FDFCC's separation from the establishment, as required by OCGA § 43-18-71(b).

(gg) Ensure that the Board is notified within 15 days prior to a change of ownership in the establishment, as required by OCGA § 43-18-73(b).

(hh) Ensure that the Board is notified within 5 days of the destruction of the establishment by fire, flood, or other natural cause, in accordance with OCGA § 43-18-78. If the establishment wishes to operate from a temporary location, the FDFCC must ensure that a letter requesting a 90-day grace period is submitted to the Board. The FDFCC will be responsible to update the Board within 90 days on the status of rebuilding efforts and to request subsequent 90-day grace periods if necessary to continue operating from the temporary site approved by the Board.

(ii) Ensure that the establishment is made available for inspection by representatives of the Professional Licensing Boards Division, as required by OCGA § 43-18-75(a) & Rule 250-6-.06.

(jj) Ensure that violations found by inspectors are corrected promptly and fines levied resulting from violations are paid or appealed to the Board in writing within 30 days as stated on the citation report.

(kk) Ensure that cremated remains are disposed of in accordance with the provisions of OCGA § 43-18-80.

(2) Revocation of funeral director in full and continuous charge appointment may be considered for any funeral establishment violation(s), especially repeat and/or habitual violations.

Authority: O.C.G.A. §§ 43-18-1(12); 43-18-23; 43-18-46; 43-18-71.