

Chapter 308-49 WAC

PREARRANGEMENT FUNERAL SERVICES

WAC

308-49-100	Purpose.
308-49-130	Definitions.
308-49-140	Registration of establishments.
308-49-150	Prearrangement funeral service contract form requirements.
308-49-164	Prearrangement funeral service trust agreement requirements.
308-49-168	Trust fund depository agreement requirements.
308-49-170	Annual statement requirements.
308-49-200	Telephone solicitation.
308-49-210	Examination expense from change of ownership or control.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

308-49-120	Effective date and scope. [Statutory Authority: 1982 c 66 § 12. WSR 83-04-021 (Order PL 420), § 308-49-120, filed 1/26/83.] Repealed by WSR 07-03-027, filed 1/5/07, effective 2/5/07. Statutory Authority: RCW 18.39.175 and chapter 34.05 RCW.
308-49-160	Requirements as to trust funds. [Statutory Authority: 1982 c 66 § 12. WSR 83-04-021 (Order PL 420), § 308-49-160, filed 1/26/83.] Repealed by WSR 90-17-148, filed 8/22/90, effective 9/22/90. Statutory Authority: RCW 18.39.175(4).
308-49-162	Trustee and master trust requirements. [Statutory Authority: RCW 18.39.175(4). WSR 90-17-148, § 308-49-162, filed 8/22/90, effective 9/22/90.] Repealed by WSR 97-21-064, filed 10/14/97, effective 11/14/97. Statutory Authority: RCW 18.39.175(4).
308-49-180	Renewal of certificate of registration. [Statutory Authority: 1982 c 66 § 12. WSR 83-04-021 (Order PL 420), § 308-49-180, filed 1/26/83.] Repealed by WSR 87-18-053 (Order PM 677), filed 9/1/87. Statutory Authority: RCW 18.39.290 and 18.39.320.

WAC 308-49-100 Purpose. The purpose of this chapter is to implement the provisions of RCW 18.39.240 through 18.39.345 and 18.39.360, by establishing rules for the registration of funeral establishments which enter into prearrangement funeral service contracts and to establish uniform minimum requirements for such contracts and prearrangement trust funds.

[Statutory Authority: RCW 18.39.175(4). WSR 90-17-148, § 308-49-100, filed 8/22/90, effective 9/22/90. Statutory Authority: 1982 c 66 § 12. WSR 83-04-021 (Order PL 420), § 308-49-100, filed 1/26/83.]

WAC 308-49-130 Definitions. Unless the text in this chapter clearly states or requires otherwise, definitions shall be as set forth in RCW 18.39.010.

[Statutory Authority: RCW 18.39.175(4). WSR 90-17-148, § 308-49-130, filed 8/22/90, effective 9/22/90. Statutory Authority: 1982 c 66 § 12. WSR 83-04-021 (Order PL 420), § 308-49-130, filed 1/26/83.]

WAC 308-49-140 Registration of establishments. (1) Each funeral establishment entering into prearrangement funeral service contracts in which one or more of the following conditions exist must be registered with the board before entering into such contracts:

(a) The sales price of the contract, using either trust or insurance as a method of funding, guarantees a final price for

(1/5/07)

merchandise and services. The guarantee assures the purchaser that there will be no additional charges for the merchandise and services disclosed within the agreement.

(b) The sales price of the contract using a trust as a method of funding plus accruals will be applied toward the cost of merchandise and services at the time of need. Should the cost of merchandise and services selected at the time of need exceed the sales price of the contract plus accruals, the purchaser will pay the difference. Should the cost of merchandise and services selected at the time of need be less than the sales price of the contract plus accruals, the purchaser will receive a refund for the difference.

(c) Insurance is used as a method of funding guaranteeing a final price for merchandise and services. Such guarantee assures the purchaser that there will be no additional charges for merchandise and services disclosed in the agreement.

(2) Before entering into any prearrangement funeral service contracts in this state, a funeral establishment shall first obtain a certificate of registration from the board. To apply for registration, a funeral establishment must file an application on forms approved by the board of funeral directors and embalmers, which includes:

(a) The name, address, and telephone number of the funeral establishment;

(b) A statement of the establishment's current financial condition and an explanation of how the establishment plans to offer, market and service prearrangement contracts including:

(i) The type of business organization which operates the funeral establishment, e.g., sole proprietorship, partnership, or corporation and a list of all officers, directors, partners and managers by name and title, and any person owning more than ten percent of the business;

(ii) A balance sheet and a profit and loss statement for the most recently concluded fiscal year and/or other such fiscal documents as the board may require;

(c) The prearrangement funeral service contract forms the establishment proposes to use need not be in final printed form when submitted; however, a copy of the final printed form shall be filed with the board before the form is used;

(d) Identification of the trustee(s) of the prearrangement funeral service trust, including address and telephone number.

(e) A copy of the prearrangement funeral service trust agreement and the prearrangement funeral service trust depository agreement.

(3) Upon review of the application, the board may require additional information or explanation prior to registration or refusing to register the funeral establishment.

(4) The application shall be accompanied by a check payable to the state treasurer in the amount required by the director for issuance of the certificate of registration.

[Statutory Authority: RCW 18.39.175(4). WSR 90-17-148, § 308-49-140, filed 8/22/90, effective 9/22/90. Statutory Authority: RCW 18.35.175(4). WSR 88-13-010 (Order PM 737), § 308-49-140, filed 6/6/88. Statutory Authority: RCW 18.39.290 and 18.39.320. WSR 87-18-053 (Order PM 677), § 308-49-140, filed 9/1/87. Statutory Authority: 1982 c 66 § 12. WSR 83-04-021 (Order PL 420), § 308-49-140, filed 1/26/83.]

WAC 308-49-150 Prearrangement funeral service contract form requirements. (1) The terms of prearrangement funeral service contracts are of substantial importance to both consumers and the establishment.

Contracts must be written in language that can be easily understood by all parties and printed or typed in easily readable type size and style.

(2) Every prearrangement funeral service contract must include the following information:

(a) The name of the purchaser and the beneficiary of the contract;

(b) A description of the services and merchandise to be provided, if specific merchandise and services are to be furnished, and a statement clearly setting forth whether the purchase price fully pays for such services and merchandise or if the purchase price is to be applied toward the cost of such services and merchandise when they are provided;

(c) The total purchase price to be paid under the contract and the manner and terms which will govern payment;

(d) That all funds placed in trust plus net accruals are subject to refund.

(3) Such contract shall be dated and be executed by the purchaser and by the funeral establishment through its owner, officer or managing agent.

[Statutory Authority: RCW 18.39.175(4). WSR 02-19-019, § 308-49-150, filed 9/9/02, effective 10/10/02; WSR 90-17-148, § 308-49-150, filed 8/22/90, effective 9/22/90. Statutory Authority: 1982 c 66 § 12. WSR 83-04-021 (Order PL 420), § 308-49-150, filed 1/26/83.]

WAC 308-49-164 Prearrangement funeral service trust agreement requirements. (1) Each establishment entering into prearrangement funeral service contracts which does not use insurance as a method of funding shall establish one or more prearrangement funeral service trust agreements.

(2) Such prearrangement funeral service trust agreements shall be between the funeral establishment and trustees designated by the funeral establishment. The agreement shall include language that provides for:

(a) A minimum of two trustees;

(b) Duties and responsibilities of the trustees;

(c) Method of removal of trustees;

(d) Selection of depository(ies);

(e) Details as to investment and administration of the trust;

(f) Compensation of trustees and expenses to be incurred;

(g) Accounting methods to be used;

(h) Provisions for amendment and termination of the trust agreement.

(3) Such prearrangement funeral service trust agreements are an integral part of the prearrangement funeral service contract and shall be approved by the board prior to use. Amendments or changes to the trust agreement must receive prior approval from the board before incorporation of amendment or change.

[Statutory Authority: RCW 18.39.175(4). WSR 02-19-019, § 308-49-164, filed 9/9/02, effective 10/10/02; WSR 97-21-064, § 308-49-164, filed 10/14/97, effective 11/14/97; WSR 90-17-148, § 308-49-164, filed 8/22/90, effective 9/22/90.]

WAC 308-49-168 Trust fund depository agreement requirements. (1) Each prearrangement funeral trust shall enter into an agreement with one or more depositories in which the responsibilities of the depository are set forth. The agreement shall contain language which:

(a) Sets forth the terms and conditions under which deposits and withdrawals are made;

(b) States that instruments of deposit shall be an insured account in a public depository or shall be invested in instruments issued or insured by an agency of the federal government, and sets forth the conditions for termination and transfer of the prearrangement trust fund depository agreement.

(2) Prearrangement trust fund depository agreements are an integral part of the prearrangement funeral service contract agreement and shall be approved by the board prior to use. Amendments to or changes in the agreement shall be filed with the board prior to incorporation. The board shall be advised prior to termination of any depository agreement.

[Statutory Authority: RCW 18.39.175 and chapter 34.05 RCW. WSR 07-03-027, § 308-49-168, filed 1/5/07, effective 2/5/07. Statutory Authority: RCW 18.39.175(4). WSR 90-17-148, § 308-49-168, filed 8/22/90, effective 9/22/90.]

WAC 308-49-170 Annual statement requirements.

(1) Each funeral establishment must file with the board annually, ninety days after the end of its fiscal year, a statement of its financial condition, transactions and affairs for the preceding fiscal year.

(2) The statement shall include a balance sheet and a profit and loss statement for the preceding fiscal year and/or other such fiscal documents as the board may require.

(3) The funeral establishment shall list any changes in its officers, directors, managers or partners or any change in ownership greater than ten percent which have occurred in the preceding fiscal year.

(4) With respect to each prearrangement funeral service contract trust fund, the following information must be provided:

(a) The name of the depository and the account number;

(b) The number of outstanding contracts at the beginning of the fiscal year;

(c) The total amount paid in by the holders of such contracts pertinent to the trust fund;

(d) The total amount deposited in the trust account;

(e) The number of new contracts issued during the fiscal year;

(f) The amount paid in on such new contracts and the amount deposited in the trust fund for such contracts;

(g) The number of withdrawals from the trust due to contract cancellations and/or instances where the funeral merchandise and services covered by prearrangement contracts have been furnished and delivered. Withdrawals will include principal and earnings;

(h) The number of outstanding contracts as of the end of the fiscal year and the amount being held in trust for such contracts.

(5) The annual report form must include a year-end statement from the depository as to the amount of money held in funeral prearrangement trust as of the reporting date.

[Statutory Authority: RCW 18.39.175 and chapter 34.05 RCW. WSR 07-03-027, § 308-49-170, filed 1/5/07, effective 2/5/07. Statutory Authority: RCW 18.39.175(4). WSR 02-19-019, § 308-49-170, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 18.35.175(4). WSR 88-13-010 (Order PM 737), § 308-49-170, filed 6/6/88. Statutory Authority: RCW 18.39.290 and 18.39.320. WSR 87-18-053 (Order PM 677), § 308-49-170, filed 9/1/87. Statutory Authority: 1982 c 66 § 12. WSR 83-04-021 (Order PL 420), § 308-49-170, filed 1/26/83.]

WAC 308-49-200 Telephone solicitation. (1) The use of telephones for solicitation of prearrangements is prevalent. This form of communication offers unique benefits, but entails special risks and poses potential for abuse. The board finds that any impropriety in telephone solicitation is a matter vitally affecting the public interest. For the general welfare of the public and in order to protect the integrity of the funeral industry, the use of telephones in solicitation of prearrangements must be defined by the board.

(2) Definitions:

(a) "Telephone solicitor" means any person who engages in telephone solicitation on behalf of a holder of an establishment license.

(b) "Telephone solicitation" means an unsolicited telephone call to a person and conversation for the purpose of inducing the person to make funeral prearrangements made without previous invitation, expressed or implied, by the person called.

(3) Time limits:

(a) No licensee may knowingly cause a telephone solicitation to be made to any person more often than once in every six months.

(b) A telephone solicitor shall not place calls which will be received before 8:00 a.m. or after 9:00 p.m.

(4) Unfair/deceptive practices. A telephone solicitor may not engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

(5) Identification. Within the first thirty seconds of the telephone call, a telephone solicitor or salesperson shall:

(a) Identify himself or herself, the company on whose behalf the solicitation is being made, the property, goods, or services being represented; and

(b) Terminate the telephone call within ten seconds if the purchaser indicates he or she does not wish to continue the conversation.

(6) Termination of contact. If at any time during the telephone contact, the purchaser states or indicates that he or she does not wish to be called again by the telephone solicitor or wants to have his or her name and individual telephone number removed from the telephone lists used by the telephone solicitor, the telephone solicitor shall not make any additional telephone solicitation of the called party at that telephone number within a period of at least one year.

(7) Enforcement. In the event that the board discerns a pattern of violation of these standards the board may act against the registrant's prearrangement registration as provided by chapter 18.39 RCW.

[Statutory Authority: RCW 18.39.175(4). WSR 90-17-148, § 308-49-200, filed 8/22/90, effective 9/22/90.]

(1/5/07)

WAC 308-49-210 Examination expense from change of ownership or control. Examination expenses for a funeral prearrangement trust fund examination performed in conjunction with a transfer of ownership or control of a funeral establishment will be paid by the selling entity.

[Statutory Authority: RCW 18.39.175(4). WSR 02-19-019, § 308-49-210, filed 9/9/02, effective 10/10/02.]