

Title 98 WAC

LICENSING, DEPARTMENT OF (CEMETERY BOARD)

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Chapter 98-08 WAC PRACTICE AND PROCEDURE

WAC

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WAC 98-08-010 Appearance and practice before agency—Who may appear. No person may appear in a representative capacity before the board or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

[Rule .08.010, effective 2/8/60.]

Reviser's note: As filed with the code reviser's office, the above section also contains an additional subsection reading as follows: "(5) [Qualification of nonlawyer representative, ethical conduct, etc.]"

WAC 98-08-030 Appearance and practice before agency—Solicitation of business unethical. It shall be unethical for persons acting in a representative capacity before the board to solicit business by circulars, advertisements or by personal communication or interviews not warranted by personal relations: Provided, That such representatives may publish or circulate business cards. It is equally unethical to procure business indirectly by solicitors of any kind.

[Rule .08.030, effective 2/8/60.]

WAC 98-08-040 Appearance and practice before agency—Standards of ethical conduct. All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board.

[Rule .08.040, effective 2/8/60.]

WAC 98-08-050 Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff. No former employee of the board or member of the attorney general's staff may at any time after severing his employment with the board or the attorney general appear, except with the written permission of the board, in a representative capacity on behalf of other parties in a formal proceeding wherein he previously took an active part as a representative of the board.

[Rule .08.050, effective 2/8/60.]

WAC 98-08-060 Appearance and practice before agency—Former employee as expert witness. No former employee of the board shall at any time after severing his employment with the board appear, except with the written permission of the board, as an expert witness on behalf of other parties in a formal proceeding wherein he previously took an active part in the investigation as a representative of the board.

[Rule .08.060, effective 2/8/60.]

WAC 98-08-070 Computation of time. In computing any period of time prescribed or allowed by the board rules, by order of the board or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

[Rule .08.070, effective 2/8/60.]

WAC 98-08-080 Notice and opportunity for hearing in contested cases. In any contested case, all parties shall be served with a notice at least 20 days before the date set for the hearing. The notice shall state the time, place, and issues involved, as required by RCW 34.04.090(1).

[Rule .08.080, effective 2/8/60.]

WAC 98-08-090 Service of process—By whom served. The board shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.

[Rule .08.090, effective 2/8/60.]

WAC 98-08-100 Service of process—Upon whom served. All papers served by either the board or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.

[Rule .08.100, effective 2/8/60.]

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WAC 98-08-110 Service of process—Service upon parties. The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to counsel of record.

[Rule .08.110, effective 2/8/60.]

WAC 98-08-120 Service of process—Method of service. Service of papers shall be made personally or, as provided by RCW 68.05.170, by first-class, registered, or certified mail; or by telegraph.

[Rule .08.120, effective 2/8/60.]

WAC 98-08-130 When service complete. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid.

[Rule .08.130, effective 2/8/60.]

WAC 98-08-140 When service complete—Filing with agency. Papers required to be filed with the board shall be deemed filed upon actual receipt by the board at the place specified in its rules accompanied by proof of service upon parties required to be served.

[Rule .08.140, effective 2/8/60.]

WAC 98-08-150 Subpoenas—Where provided by law—Form. Every subpoena allowed by RCW 68.05.105 shall state "cemetery board" and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

[Statutory Authority: RCW 68.05.105, 89-08-043 (Order PM 830), § 98-08-150, filed 3/31/89; Rule .08.150, effective 2/8/60.]

WAC 98-08-170 Subpoenas—Service. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person.

[Rule .08.170, effective 2/8/60.]

WAC 98-08-190 Subpoenas—Proof of service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the board or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the board, and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

[Rule .08.190, effective 2/8/60.]

WAC 98-08-200 Subpoenas—Quashing. Upon motion made promptly, and in any event at or before the time

specified in the subpoena for compliance, by the person to whom the subpoena is directed (and upon notice to the party to whom the subpoena was issued) the board or its authorized member or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

[Rule .08.200, effective 2/8/60.]

WAC 98-08-210 Subpoenas—Enforcement. Upon application and for good cause shown, the board will seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

[Rule .08.210, effective 2/8/60.]

WAC 98-08-220 Subpoenas—Geographical scope. Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

[Rule .08.220, effective 2/8/60.]

WAC 98-08-370 Official notice—Matters of law. The board or its hearing officer, upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register;

(2) **State law.** The constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations;

(4) **Agency organization.** The board's organization, administration, officers, personnel, official publications, and practitioners before its bar.

[Rule .08.370, effective 2/8/60.]

WAC 98-08-380 Official notice—Material facts. In the absence of controverting evidence, the board and its hearing officers, upon request made before or during a hearing, may officially notice:

(1) **Board proceedings.** The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the board;

(2) **Business customs.** General customs and practices followed in the transaction of business;

(3) **Notorious facts.** Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible

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sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) **Technical knowledge.** Matters within the technical knowledge of the board as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) **Request or suggestion.** Any party may request, or the hearing officer of the board may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) **Statement.** Where an initial or final decision of the board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer of the board may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) **Evaluation of evidence.** Nothing herein shall be construed to preclude the board or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

[Rule .08.380, effective 2/8/60.]

WAC 98-08-390 Presumptions. Upon proof of the predicate facts specified in the following six subsections hereof without substantial dispute and by direct, clear, and convincing evidence, the board, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) **Continuity.** That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) **Identity.** That persons and objects of the same name and description are identical;

(3) **Delivery.** Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter,

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communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company, or authorized common carrier of property with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) **Ordinary course.** That a fact exists or does not exist, upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly co-exists with the fact presumed;

(5) **Acceptance of benefit.** That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his own self-interest so to do;

(6) **Interference with remedy.** That evidence, with respect to a material fact which in bad faith is destroyed, eloi-gned, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

[Rule .08.390, effective 2/8/60.]

WAC 98-08-400 Stipulations and admissions of record. The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) **Upon whom binding.** Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) **Withdrawal.** Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing officer or the board that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

[Rule .08.400, effective 2/8/60.]

WAC 98-08-410 Form and content of decisions in contested cases. Every decision and order, whether proposed, initial, or final, shall:

(1) Be correctly captioned as to name of agency and name of proceeding;

(2) Designate all parties and counsel to the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;

(5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;

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(6) Wherever practical, the conclusions and/or order shall be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same.

[Rule .08.410, effective 2/8/60.]

WAC 98-08-420 Definition of issues before hearing.

In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that hearing officers may proceed promptly to conduct the hearings on relevant and material matter only.

[Rule .08.420, effective 2/8/60.]

WAC 98-08-430 Prehearing conference rule—

Authorized. In any proceeding the board or its designated hearing officer upon its or his own motion, or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider

(1) The simplification of the issues;

(2) The necessity of amendments to the pleadings;

(3) The possibility of obtaining stipulations, admissions of facts and of documents;

(4) The limitation of number of expert witnesses;

(5) Such other matters as may aid in the disposition of the proceeding.

[Rule .08.430, effective 2/8/60.]

WAC 98-08-440 Prehearing conference rule—

Record of conference action. The board or its designated hearing officer shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

[Rule .08.440, effective 2/8/60.]

WAC 98-08-450 Submission of documentary evidence in advance. Where practicable the board or its designated hearing officer may require:

(1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(2) That documentary evidence not submitted in advance, as may be required by subsection (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(3) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection

thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

[Rule .08.450, effective 2/8/60.]

WAC 98-08-460 Excerpts from documentary evidence. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

[Rule .08.460, effective 2/8/60.]

WAC 98-08-470 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. That the hearing examiner or other appropriate officer in all classes of cases where practicable make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications.

[Rule .08.470, effective 2/8/60.]

WAC 98-08-480 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. That the hearing examiner or other appropriate officer, in all classes of cases in which it is practicable and permissible, require, and when not so permissible, make every effort to bring about by voluntary submission, that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses.

[Rule .08.480, effective 2/8/60.]

WAC 98-08-490 Expert or opinion testimony and testimony based on economic and statistical data—Sup-

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porting data. That the hearing examiner or other appropriate officer, in his discretion but consistent with the rights of the parties, cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with WAC 98-08-480, but, wherever practicable that he restrict to a minimum the placing of such data in the record.

[Rule .08.490, effective 2/8/60.]

WAC 98-08-500 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 98-08-470 or 98-08-480. Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirements fixed under the provisions of WAC 98-08-470 or 98-08-480, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements.

[Rule .08.500, effective 2/8/60.]

WAC 98-08-510 Continuances. Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the board or its designated hearing officer of said desire, stating in detail the reasons why such continuance is necessary. The board or its designated hearing officer, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. For good cause shown, the board or its designated hearing officer may grant such a continuance and may at any time order a continuance upon its or his own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner or other officer conducting the hearing may in his discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

[Rule .08.510, effective 2/8/60.]

WAC 98-08-520 Rules of evidence—Admissibility criteria. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

[Rule .08.520, effective 2/8/60.]

WAC 98-08-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.

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When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.

[Rule .08.530, effective 2/8/60.]

WAC 98-08-540 Petitions for rule making, amendment or repeal. Any interested person may petition the board requesting the promulgation, amendment, or repeal of any rule.

[Rule .08.540, effective 2/8/60.]

WAC 98-08-550 Petitions for rule making, amendment or repeal—Requisites. Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

[Rule .08.550, effective 2/8/60.]

WAC 98-08-560 Petitions for rule making, amendment or repeal—Agency must consider. All petitions shall be considered by the board and the board may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.

[Rule .08.560, effective 2/8/60.]

WAC 98-08-570 Petitions for rule making, amendment or repeal—Notice of disposition. The board shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition.

[Rule .08.570, effective 2/8/60.]

WAC 98-08-580 Declaratory rulings. As prescribed by RCW 34.04.080, any interested person may petition the board for a declaratory ruling. The board shall consider the petition and within a reasonable time the board shall:

- (1) Issue a nonbinding declaratory ruling; or
- (2) Notify the person that no declaratory ruling is to be issued; or
- (3) Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved;
- (4) If a hearing as provided in subsection (3) is conducted, the board shall within a reasonable time:
 - (a) Issue a binding declaratory rule; or
 - (b) Issue a nonbinding declaratory ruling; or
 - (c) Notify the person that no declaratory ruling is to be issued.

[Rule .08.580, effective 2/8/60.]

WAC 98-08-590 Forms. Any interested person petitioning the board for a declaratory ruling pursuant to RCW 34.04.080, shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "before the cemetery board of the state of Washington." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

The original and two legible copies shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

Any interested person petitioning the board requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "before the cemetery board of the state of Washington." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of rule (or rules)." Opposite the foregoing caption shall appear the word "petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

[Rule .08.590, effective 2/8/60.]

**Chapter 98-11 WAC
NONENDOWED CARE CEMETERIES**

WAC

98-11-005 Definition—Section.
98-11-010 Financial responsibility requirements for nonendowment care cemeteries.

WAC 98-11-005 Definition—Section. For the purposes of RCW 68.40.025, "section" shall mean cemetery land, either dedicated or undedicated, that was not available for sale prior to the effective date of RCW 68.40.025. A section shall have at least one of the following characteristics:

- (1) Area that is distinguishable as a unit of unsold graves not commingled with units of graves in which sales have occurred prior to the effective date of RCW 68.40.025.
- (2) Areas owned by cemeteries for future development.
- (3) Areas acquired by cemeteries for development after the effective date of RCW 68.40.025.
- (4) Areas consisting of groups of graves or lots identified by the cemetery with title or number as to create the appearance of a distinguishable group.
- (5) Mausoleums, columbariums, crypts or niches constructed after the effective date of RCW 68.40.025.

[Statutory Authority: RCW 68.05.105(1), 88-07-032 (Order PM 714), § 98-11-005, filed 3/9/88.]

WAC 98-11-010 Financial responsibility requirements for nonendowment care cemeteries. Any cemetery authority (as defined in RCW 68.04.190) which desires to obtain a certificate of authority to operate a cemetery (as required by RCW 68.05.115, 68.05.210, and 68.05.215), but which does not deposit in an endowment care fund the minimum sum required by RCW 68.40.010 of an endowment care cemetery shall be required by the cemetery board, in the exercise of the powers conferred upon it by RCW 68.05.210, as a condition precedent to the granting of such certificate of authority, to present to the cemetery board satisfactory proof that the cemetery authority has, at the time of its application for such certificate of authority or within a reasonable time prior thereto, a corporate net worth, determined by commonly accepted accounting standards and criteria, in excess of one hundred thousand dollars: Provided, That nothing herein shall apply to any corporation, association, society or municipal corporation referred to in RCW 68.05.400: Provided further, That any cemetery authority which is denied a certification of authority under the provisions hereof, shall have the right to appeal from such denial to the superior court of the county in which the cemetery authority is located or proposed to be located, such appeal to be taken within thirty days after the denial of the certificate of authority.

[Statutory Authority: RCW 68.05.105, 89-08-043 (Order PM 830), § 98-11-010, filed 3/31/89; Order 72-1, § 98-11-010, filed 9/8/72.]

**Chapter 98-12 WAC
ENDOWMENT CARE CEMETERIES**

WAC

98-12-020 Improved commercial or real estate income.
98-12-030 "Gross sales price" defined.
98-12-040 Records of endowment care funds.

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

98-12-010 Endowment care trust funds—Alteration of identity of trustee—Notice required. [Order 72-1, § 98-12-010, filed 9/8/72.] Repealed by 89-08-043 (Order PM 830), filed 3/31/89. Statutory Authority: RCW 68.05.105.

WAC 98-12-020 Improved commercial or real estate income. In determining the trust fund income for the purpose of RCW 68.44.020 and 68.44.170, an allowance for depreciation on the improved real estate will be used as a determining factor in computing fund income. The trustee shall deduct depreciation from the gross rents and transfer the amount into a fund for depreciation account. The fund may be reinvested with other endowment investments, or may be used to create a sinking fund within the endowment fund.

[Statutory Authority: RCW 68.05.100, 81-07-013 (Order 104), § 98-12-020, filed 3/9/81.]

WAC 98-12-030 "Gross sales price" defined. In determining "ten percent of the gross sales price" pursuant to RCW 68.40.010, gross sales price shall not include the endowment care fund portion. Endowment care shall be added to the gross sales price and separately identified as endowment care on any contract. For example: Grave gross sales price - \$100.00. Endowment care requirement - \$10.00. Total contract price - \$110.00.

[Statutory Authority: RCW 68.05.100, 83-02-063 (Order 106), § 98-12-030, filed 1/5/83.]

WAC 98-12-040 Records of endowment care funds. Any cemetery authority maintaining an endowment care fund shall, at all times, maintain a current accounting system in accordance with generally accepted accounting standards and principles. The system shall include, but not be limited to, all the following:

- (1) A general journal for journal entries: All original documents must be numbered with a reference number, check number, or contract number.
- (2) An individual contract or agreement with each individual purchasing a right of interment with reference numbering.
- (3) A sales register or journal showing the recording of all individual sales including date of sale, gross sales price of the interment right, consumer name, reference number to the original document, general ledger account number for postings, and amount payable to the endowment care fund.
- (4) An individual account record which records the amount of the gross sales price of the right of interment, payments received and the amount due or paid to the endowment care fund.
- (5) A check register or cash disbursements journal which shall show payments to the endowment care fund by date and amount, name and reference number, and check number. In addition, a file of cancelled checks and/or money order receipts shall be maintained.
- (6) Schedules or documentation reconciling to and showing the detail of each payment to the endowment care fund including date of payment, individual customer name, account and reference number of original document.

(7) A cash receipts journal which shall show receipts from individual customers as well as receipts from the endowment care fund and their proper disbursements to the maintenance accounts.

(8) Records of maintenance expenses.

(9) Where the directors of the cemetery authority act as trustees for its endowment care fund, the records of the endowment care fund shall be kept as separate records (rec- onciled quarterly) and shall consist of, but not be limited to, the following:

(a) A general ledger with all accounts numbered.

(b) Minute book.

(c) A separate account designated as the endowment care fund account through which receipts to the fund, disburse- ments to the investments of the fund and disbursements to the cemetery authority are transmitted.

(d) A portfolio listing of all investments or cash holdings of the fund.

All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall be retained and available for inspection for a period of seven years and shall be in such form as to be understandable to the cemetery board examiner or other per- sons reasonably having cause to access them.

[Statutory Authority: RCW 68.05.100. 83-02-063 (Order 106), § 98-12-040, filed 1/5/83.]

Chapter 98-14 WAC PREARRANGEMENT CONTRACTS

WAC

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| 98-14-010 | Definitions. |
| 98-14-020 | Itemization of charges. |
| 98-14-030 | Form of delivery. |
| 98-14-040 | Performance of services. |
| 98-14-050 | Determination of delivery. |
| 98-14-060 | Suppliers. |
| 98-14-070 | Securities for loans. |
| 98-14-080 | Development plan. |
| 98-14-090 | Records of prearrangement trust funds. |
| 98-14-100 | Qualifications of applicant for prearrangement sales license. |
| 98-14-200 | Telephone solicitation. |

WAC 98-14-010 Definitions. All definitions of chapter 68.46 RCW apply to this chapter of WAC.

[Order CB 101, § 98-14-010, filed 10/17/75.]

WAC 98-14-020 Itemization of charges. In addition to all other requirements of the law relating to consumer con- tracts, all prearrangement contracts must have a specific itemization of charges and descriptions for each merchandise or service to be furnished or delivered including, but not lim- ited to, an itemization of services to be performed on deliv- ered merchandise such as, but not limited to, marker installa- tion and care. There shall be a special itemization of charges and descriptions for each grave niche or crypt sold in connec- tion with any prearrangement contract.

[Order CB 101, § 98-14-020, filed 10/17/75.]

WAC 98-14-030 Form of delivery. All prearrangement contracts must state on the contract what form or forms of

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delivery of merchandise will constitute "delivery" to satisfy the requirements of RCW 68.46.050.

[Order CB 101, § 98-14-030, filed 10/17/75.]

WAC 98-14-040 Performance of services. Prearrange- ment services, including shipment and installation of prear- rangement merchandise, shall not be deemed to have been furnished within the meaning of RCW 68.46.050(1) until per- formance of such services has actually occurred.

[Order CB 101, § 98-14-040, filed 10/17/75.]

WAC 98-14-050 Determination of delivery. Prear- rangement merchandise shall be delivered within the mean- ing of RCW 68.46.050(1) when:

(1) Actual delivery of the merchandise is made to the contract beneficiary; or

(2) Delivery of the merchandise is made to the cemetery authority for the contract beneficiary and the merchandise is permanently affixed to real property or a mausoleum; or

(3) Delivery of the merchandise to the cemetery author- ity for the contract beneficiary with the storage provided by the cemetery authority, provided that fifty percent of the ser- vice charge of the installation and other services to be per- formed upon the merchandise is maintained in the prear- rangement trust fund, and an insurance provision is main- tained when stored in a building: Provided, That no insurance is necessary when merchandise is affixed to the grave; or

(4) The cemetery authority has paid its supplier for pre- arrangement merchandise, and the supplier has caused such merchandise to be manufactured and stored, and has caused title to such merchandise to be transferred to the contract beneficiary, and has agreed to ship such merchandise upon his request or the request of the cemetery authority: Pro- vided, That fifty percent of the service charge of delivery, installation and other costs are maintained in the prearrange- ment trust fund by the cemetery authority. Such delivery and installation cost must be itemized upon the prearrangement contract, in accordance with WAC 98-14-020.

[Order CB 101, § 98-14-050, filed 10/17/75.]

WAC 98-14-060 Suppliers. No person, firm or corpo- ration shall be deemed a supplier for purposes of chapter 98- 14 WAC, unless it:

(1) Permanently and unalterably identifies all such mer- chandise with the name of the contract beneficiary; and

(2) Submits to the board not less than annually a certified report by a certified public accountant of all merchandise which has been purchased through a Washington cemetery authority and which, at the date of such report, was then in storage; and

(3) Permits the board or its designee, at any time, to examine stored merchandise which was purchased through a Washington cemetery authority and to examine any docu- ment pertaining thereto; and

(4) Submits evidence of a bond insuring the existing and good title of any merchandise due any contract beneficiary purchased through a Washington cemetery authority; and

(5) Submits evidence insuring that all merchandise purchased through a Washington cemetery authority and being stored by said supplier is insured for casualty, theft or other loss normally assumed by a bailee for hire.

[Order CB 101, § 98-14-060, filed 10/17/75.]

WAC 98-14-070 Securities for loans. In any instance where a prearrangement contract containing undelivered merchandise or services is sold, pledged or otherwise encumbered as security for a loan by cemetery authority, the cemetery authority shall pay into the prearrangement trust fund fifty percent of the total sale price of the prearrangement contract within twenty days of receipt of payment of the proceeds from such sale or loan.

[Order CB 101, § 98-14-070, filed 10/17/75.]

WAC 98-14-080 Development plan. Any cemetery authority selling undeveloped graves, unconstructed crypts or niches in accordance with chapter 68.46 RCW shall make available to the purchaser at the time the prearrangement contract is signed, a statement of estimated time schedule of the development or construction. Such schedules, or modifications of them, will also be submitted to the cemetery board annually with the financial reports required by RCW 68.46.090 and made available to holders of prearrangement contracts affected by such development or construction in the offices of the cemetery authority.

[Statutory Authority: RCW 68.05.100. 89-08-043 (Order PM 830), § 98-14-080, filed 1/5/83.]

WAC 98-14-090 Records of prearrangement trust funds. Any cemetery authority maintaining a prearrangement trust fund shall, at all times, maintain a current accounting system in accordance with generally accepted accounting standards and principles. The system shall include, but not be limited to, all of the following:

- (1) An individual contract or agreement with each individual establishing a prearrangement trust agreement.
- (2) A sales register or journal showing the recording of all individual sales including date of sale, gross sales price, and detail of items sold.
- (3) An individual account record which records the amount of the prearrangement agreement, all payments received, the amount due the prearrangement trust fund and the distribution of payments received to the prearrangement trust fund or the cemetery authority in accordance with the method then allowed by the cemetery authority's prearrangement license.
- (4) A cash receipts journal which shall show each payment received from individual customers.
- (5) Schedules or documentation reconciling to and showing detail of each payment to and withdrawal from the prearrangement trust fund including date of payment, individual customer name, and amounts.
- (6) Schedules and documentation showing detail of prearrangement trust fund asset management, renewal (roll-over), and earnings. When assets are held in instruments that return a mix of principal and earnings throughout the period

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of holding, schedules shall be maintained reconciling principal to opening deposit.

All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall be retained and available for inspection for a period of seven years and shall be in such form as to be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

[Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-14-090, filed 3/31/89. Statutory Authority: RCW 68.05.100. 83-02-063 (Order 106), § 98-14-090, filed 1/5/83.]

WAC 98-14-100 Qualifications of applicant for prearrangement sales license. To qualify as an applicant for a prearrangement sales license as set forth in RCW 68.05.155 and 68.46.150, applicant must hold a valid, subsisting, and unsuspended certificate of authority to operate a cemetery in this state issued by the Washington state cemetery board.

[Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-14-100, filed 3/31/89.]

WAC 98-14-200 Telephone solicitation. (1) The use of telephones for solicitation of prearrangements is prevalent. This form of communication offers unique benefits, but entails special risk 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 cemetery 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 a certificate of authority to operate.

(b) "Telephone solicitation" means an unsolicited telephone call to a person and conversation for the purpose of inducing the person to make cemetery 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 licensee's prearrangement license as provided by Title 68 RCW.

[Statutory Authority: RCW 68.05.105 (1) and (2), 90-17-073, § 98-14-200, filed 8/16/90, effective 9/16/90.]

Chapter 98-16 WAC HYBRID UNITS

WAC

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| 98-16-010 | Hybrid unit. |
| 98-16-020 | Hybrid unit as funeral merchandise or services. |
| 98-16-030 | Disclosure of support or service items. |

WAC 98-16-010 Hybrid unit. A hybrid unit shall mean any combination "casket-vault" that is designed, intended, or represented to function as a substitute for a casket and/or a vault, or intended to serve the same purpose as a casket or a vault or in lieu thereof.

[Statutory Authority: RCW 68.05.100, 81-07-013 (Order 104), § 98-16-010, filed 3/9/81.]

WAC 98-16-020 Hybrid unit as funeral merchandise or services. A hybrid unit shall be considered funeral merchandise or services as defined in RCW 18.39.010(8), unless specifically designated, detailed and represented to the contrary in cemetery prearrangement contracts: Provided, however, That hybrid units not subject to regulation under chapter 18.39 RCW shall, if applicable, be subject to chapter 68.46 RCW and considered cemetery merchandise or services. Such cemetery prearrangement contracts, advertising, and other representations shall clearly state which items of the hybrid unit are being sold as funeral merchandise or services and which are being sold as cemetery merchandise or services.

[Statutory Authority: RCW 68.05.105, 89-08-043 (Order PM 830), § 98-16-020, filed 3/31/89. Statutory Authority: RCW 68.05.100, 81-07-013 (Order 104), § 98-16-020, filed 3/9/81.]

WAC 98-16-030 Disclosure of support or service items. In accordance with WAC 98-14-020, hybrid units specified as cemetery merchandise or services in cemetery prearrangement contracts must be itemized, and must disclose and describe all items of support or services which are required or may be required for the future or intended use of hybrid units. "Support or service" as used herein means any function, activity, or object, and their availability, required or that may be required to meet a buyer's expectations for necessary cemetery merchandise or services and/or funeral merchandise or services. Whether items of support or service are included in the immediate purchase price or are reserved for future sale at the time of need, must be clearly set forth in the cemetery prearrangement contract, and in all advertising or

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representations pertaining to preneed or prearrangement contract sales of hybrid units.

[Statutory Authority: RCW 68.05.100, 81-07-013 (Order 104), § 98-16-030, filed 3/9/81.]

Chapter 98-20 WAC CEMETERY PROPERTY

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| 98-20-020 | Definitions—Sale or transfer of ownership or control of any cemetery. |
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 98-20-010 | Removal of dedication. [Statutory Authority: RCW 68.05.100, 81-07-013 (Order 104), § 98-20-010, filed 3/9/81.] Repealed by 89-08-043 (Order PM 830), filed 3/31/89. Statutory Authority: RCW 68.05.105. |
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WAC 98-20-020 Definitions—Sale or transfer of ownership or control of any cemetery. For purposes of RCW 68.05.115, sale or transfer of ownership or control of any cemetery authority, the following definitions shall apply:

(1) **Sale:** The purchase of a controlling interest (fifty percent or more) of assets or stock of an existing cemetery corporation.

(2) **Ownership:** The individual or individuals who own the stock of the cemetery corporation. Any one individual who owns fifty percent or more of the stock is considered an owner. When percentages of stock ownership change, anyone moving into a majority (fifty percent or more) position shall be considered the new owner, and thus subject to the provisions of RCW 68.05.115.

(3) **Control:** The person or entity who has fifty percent or more of the ownership, or has acquired the right to sell the corporation or its assets.

[Statutory Authority: RCW 68.05.105, 89-08-043 (Order PM 830), § 98-20-020, filed 3/31/89. Statutory Authority: RCW 68.05.100, 86-17-063 (Order 109), § 98-20-020, filed 8/19/86.]

Chapter 98-40 WAC PROCEDURES FOR HANDLING DEAD HUMAN BODIES BY AUTHORIZED CREMATORY AUTHORITIES

WAC

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| 98-40-010 | Purpose for procedures. |
| 98-40-020 | Terminology. |
| 98-40-030 | Removal and identification of human remains. |
| 98-40-040 | Holding human remains for cremation. |
| 98-40-050 | Cremation of human remains. |
| 98-40-060 | Processing of cremated remains. |
| 98-40-070 | Packaging and storage of cremated remains. |
| 98-40-080 | Disposition of cremated remains. |

WAC 98-40-010 Purpose for procedures. There are many considerations that must be taken into account when a crematory is entrusted with the disposition of human remains. Identification of the deceased, holding the remains for cremation, the cremation process and procedures, processing and disposition of the cremated remains are items of concern not only to the crematory, but also to the consuming public. High

standards must be employed during all phases of the cremation process.

Therefore, uniform procedures have been developed in order to maintain the professionalism and public trust expected of those involved in this vital service. It is the objective of the following procedures to ensure that all procedures reflect those high standards and serve as standards for those professionals charged with the sacred trust of the disposition of the human dead by cremation, within the realm of law and dignity.

[Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-010, filed 9/6/85.]

WAC 98-40-020 Terminology. The following definitions shall apply in this chapter:

(1) Authorizing agent(s):

The person(s) legally entitled to order the cremation of the human remains. (See RCW 68.50.160)

(2) Cremated remains:

The remaining bone fragments after cremation in a crematory. (See RCW 68.04.030)

(3) Cremation:

"Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory in such a manner that the largest dimension of any remaining particle does not exceed five millimeters; provided, that if a person entitled to possession of such remains under the provisions of RCW 68.50.270 is going to place the cremated remains in a cemetery, mausoleum, columbarium or building devoted exclusively to religious purposes, the five millimeter dimension requirement shall not apply. (See RCW 68.04.110)

(4) Cremation chamber:

The enclosed space within which the cremation process takes place.

(5) Cremation container:

The case in which the human remains should be delivered to the crematory to be placed in the cremation chamber for cremation. The cremation container shall meet the following standards:

(a) It shall be composed of a suitable combustible material. If the remains are delivered to the crematory in a non-combustible container, the authorizing agent shall be, or have been, informed of the disposition of the container if it is not actually used in the cremation process. Any transfer of human remains to combustible containers at the crematory shall be in accordance with the provisions of chapter 18.39 RCW, applicable health laws and regulations adopted hereunder.

(b) It shall be rigid enough for handling with ease.

(c) It shall assure protection to the health and safety of the crematory operators and others.

(d) It shall provide proper covering for the human remains.

(e) It shall meet moral codes for respect and dignity.

(6) Crematory authority:

The legal entity or the authorized representative of the legal entity, who conducts the cremation and who is properly licensed by the state of Washington to do so.

(7) Crematory or crematorium:

The building or room(s) that house the cremation chamber. (See RCW 68.04.070, 68.04.080 and 68.04.090 and chapter 68.28 RCW and RCW 68.05.185.)

(8) Holding facility:

An area designated for the retention of human remains prior to cremation within the crematory facilities. The area shall:

(a) Comply with any applicable public health laws.

(b) Preserve the dignity of the human remains; and

(c) Recognize the personal integrity and health of the crematory authority personnel operating the crematory.

(9) Human remains:

The body of a deceased person. (See RCW 68.04.020)

(10) Processed remains:

The end result of pulverization, where the residue from the cremation process is cleaned leaving only bone fragments reduced to five millimeters or less. (See RCW 68.04.030)

(11) Sealable container:

Any container in which processed remains can be placed and sealed so as to prevent leakage of processed remains or the entrance of foreign materials.

(12) Rules and regulations:

The crematory authority may make, adopt, amend, add to, revise or modify, and enforce rules and regulations as necessary for proper operation of the crematory and to implement the provisions of the RCW and chapter 98-40 WAC in regard to cremations and the handling and custody of human remains. (See RCW 68.20.060)

[Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-020, filed 3/31/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-020, filed 9/6/85.]

WAC 98-40-030 Removal and identification of human remains. (1) Immediately upon taking custody of human remains, a crematory authority shall verify that the human remains bear a means of identification attached to the cremation container or to the remains. A crematory authority shall not accept unidentified human remains. (See RCW 68.50.170 and 68.50.180) Upon accepting human remains for cremation, the crematory shall make a permanent signed record of the color, shape and outside covering of any casket consumed with such human remains. (See RCW 68.50.250)

(2) Materials identifying the human remains placed in the custody of a crematory authority should contain the following information: (See RCW 68.50.240)

(a) Name of deceased;

(b) Date of death;

(c) Place of death;

(d) Name and relationship of authorizing agent;

(e) Name of firm engaging crematory services.

(3) If the crematory authority takes custody subsequent to the human remains being placed within a cremation container, the crematory authority shall satisfy itself that identification has been made as described in WAC 98-40-030(2) and thereafter shall place or ensure that appropriate identification has been placed upon the exterior of the cremation container.

[Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-030, filed 3/31/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-030, filed 9/6/85.]

WAC 98-40-040 Holding human remains for cremation. (1) When the crematory authority is unable to cremate the human remains immediately upon taking custody thereof, the crematory authority shall provide a holding facility as defined in WAC 98-40-020(8) and Title 68 RCW and chapter 18.39 RCW.

(2) Human remains designated for cremation will be cremated within a reasonable time after death. (See RCW 68.50.110)

(3) A crematory authority shall not hold the human remains for cremation unless it is contained within an individual, rigid and closed cremation container as defined in WAC 98-40-020(5).

(4) A crematory authority shall not accept for holding a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

(5) Human remains that are not embalmed shall be held only within a refrigerated facility or in compliance with applicable public health regulations.

(6) Holding facilities shall be secure from access by unauthorized persons.

[Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-040, filed 3/31/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-040, filed 9/6/85.]

WAC 98-40-050 Cremation of human remains. (1) Cremation will not take place until the necessary permits and consents are issued by the health department and/or coroner or prosecuting attorney. (See RCW 68.50.108 and 70.58.230)

(2) Immediately prior to being placed within the cremation chamber, the identification of the human remains shall be verified by the crematory authority and identification of the human remains being cremated shall be placed near the cremation chamber control panel where it shall remain in place until the cremation process is complete.

(3) The unauthorized simultaneous cremation of more than one human remains within the same cremation chamber is specifically forbidden. It may be done only when authorized as provided in WAC 98-40-050 (4) and (5).

(4) A crematory authority may simultaneously cremate more than one human remains within the same cremation chamber only upon having received written authorization to do so from the authorizing agent of each human remains to be cremated. A written authorization shall exempt the crematory authority from all liability for commingling of the products of the cremation process.

(5) Simultaneous cremation of more than one human remains within the same cremation chamber may be made without the authorizations required in WAC 98-40-050 (3) and (4) if equipment, techniques, or other devices are employed that keep the human remains separate and distinct before and during, and recoverable cremated remains separated and distinct after the cremation process.

[Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-050, filed 3/31/89. Statutory Authority: RCW 68.05.105(1). 88-07-032 (Order PM 714), § 98-40-050, filed 3/9/88. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-050, filed 9/6/85.]

WAC 98-40-060 Processing of cremated remains. (1) Upon completion of the cremation, insofar as is possible, all

residual of the cremation process shall be removed from the cremation chamber and the chamber swept clean. The residual shall be placed within a container or tray in such a way that will ensure against commingling with other cremated remains. The identification shall be removed from the control panel area and attached to the container or tray to await final processing.

(2) All residual of the cremation process shall undergo final processing to comply with applicable legal requirements. It is recommended that the residual be manually cleaned of anything other than body residue and the fragments reduced to processed remains.

(3) All body prostheses, bridgework or similar items removed from the cremated remains, shall be disposed of by the crematory authority as directed by the authorizing agent. No other materials shall be removed from the cremated remains.

[Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-060, filed 9/6/85.]

WAC 98-40-070 Packaging and storage of cremated remains. (1) The entire cremated remains or processed remains shall be placed in a sealable container as defined in WAC 98-40-020(11) or in such container as may have been ordered by the authorizing agent, together with the identification of the cremated remains.

(2) Should the cremated remains or processed remains not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the cremated remains or processed remains and then securely closed.

(3) If the entire cremated remains or processed remains will not fit within the dimensions of the designated receptacle, the remainder shall be returned either in a separate container, or upon written permission of the authorizing agent, be disposed of according to the established procedures of the crematory authority.

(4) When a temporary container is used to return the cremated remains or processed remains, it is recommended that the container be placed within a sturdy box and all box seams taped closed to increase the security and integrity of that container. The outside of the container shall be clearly identified with the name of the deceased person whose cremated remains or processed remains are contained therein.

(5) Cremated remains or processed remains held by a crematory authority or cemetery pending final disposition shall be handled in accordance with RCW 68.05.185.

[Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-070, filed 3/31/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-070, filed 9/6/85.]

WAC 98-40-080 Disposition of cremated remains. (1) A crematory authority shall keep an accurate record of all cremations performed, including disposition of the remains, as required by law. (See RCW 68.50.240)

(2) Forms granting authority to cremate may contain notification of the disposition procedure in WAC 98-40-080(3).

(3) When cremated remains or processed remains of any dead human body have been in the possession of a crematory

authority, funeral director or cemetery as originally authorized by the authorizing agent(s) without instructions or payment for final disposition for a period of two years or more (see RCW 68.50.230) the crematory authority, funeral director, cemetery authority or other entity holding cremated remains or processed remains of persons other than their relatives may:

(a) Endeavor to contact the authorizing agent(s) by registered mail requesting disposition instructions and informing the authorizing agent(s) of the procedures that may be followed if disposition instructions are not received.

(b) If contact cannot be made or disposition instructions are not made within 60 days of the initiation of the contact process, the crematory authority, funeral director or cemetery authority, or other entity holding cremated remains or processed remains of persons other than their relatives, may arrange for permanent disposition of the cremated remains or processed remains in a cemetery established in accordance with Title 68 RCW. Such disposition may be in an individual, common, or community grave, crypt or niche from which individual recovery of the cremated remains or processed remains may or may not be possible. No entity making disposition of remains under this procedure shall be liable for the nonrecoverability of any cremated remains or processed remains.

(c) A record of the name, place of death, crematory authority and location of the disposition shall be maintained as permanent records by both the cemetery and crematory authority, funeral director or other entity holding cremated remains or processed remains of persons other than their relatives.

(4) With written permission from the authorizing agent, a crematory may dispose of cremated remains or processed remains in any legal manner. (See RCW 68.50.130 and 68.50.270)

[Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-080, filed 3/31/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-080, filed 9/6/85.]

Chapter 98-60 WAC

DISPOSITION OF CREMATED REMAINS

WAC

| | |
|-----------|--------------------------------------|
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| 98-60-030 | Compliance with all laws. |
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| 98-60-050 | Permits and endorsements—Terms—Fees. |

WAC 98-60-010 Definitions. The following definitions shall apply to this chapter:

(1) "Dedicated cemetery property" as used in this chapter means private cemetery property which has been dedicated in compliance with chapter 68.24 RCW, and cemetery property belonging to a public or religious cemetery as defined by RCW 68.05.400.

(2) "Board" as used in this chapter means the cemetery board.

(3) "Department" as used in this chapter means the department of licensing.

(2001 Ed.)

[Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-010, filed 3/12/93, effective 4/12/93.]

WAC 98-60-020 Permits and endorsements. (1) Any one not authorized to control the disposition of remains under RCW 68.50.160 must register to obtain a permit or endorsement to bury or otherwise dispose of cremated remains by land, sea, or air, where such disposition is made outside dedicated cemetery property.

(2) Authorization under subsection (1) of this section for those holding licenses issued by the cemetery board shall be by an endorsement to their existing license. All other authorization shall be in the form of a permit issued by the board.

(3) In the case of a corporate applicant, the corporation shall apply for and hold the endorsement or permit.

[Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-020, filed 3/12/93, effective 4/12/93.]

WAC 98-60-030 Compliance with all laws. Permit and endorsement holders shall comply with all federal, state, and local laws related to the disposition of cremated remains.

[Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-030, filed 3/12/93, effective 4/12/93.]

WAC 98-60-040 Records and documentation. (1) Permit and endorsement holders must provide a Certificate of Disposition of Cremated Remains to the person authorizing the cremation. The certificate shall identify the name of the deceased, the location and date of the disposition of the cremated remains, the manner of disposition (boat, air, or other), the name of the authorizing agent, and, if applicable, the name of the funeral home, crematory, or cemetery arranging the service.

(2) Permit and endorsement holders must maintain copies of records required under subsection (1) of this section for seven years from the date of disposition and such records shall be subject to inspection by the board.

(3) Permit and endorsement holders shall report the number of dispositions performed in the previous year in the space provided on the annual renewal form supplied by the department. Failure to provide such a report shall automatically suspend the permit or endorsement. Such permit or endorsement may be restored by making the proper report to the department.

[Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-040, filed 3/12/93, effective 4/12/93.]

WAC 98-60-050 Permits and endorsements—Terms—Fees. All permits or endorsements issued under this rule shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any permit or endorsement holder is transferred or sold.

The fees shall be as set forth in chapter 98-70 WAC and the department shall collect in advance the fees required for licensing.

[Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-050, filed 3/12/93, effective 4/12/93.]

Chapter 98-70 WAC

FEES

WAC

98-70-010 Fees.

WAC 98-70-010 Fees. The following fees shall be charged by the department of licensing:

| Title of Fee | Fee |
|--|----------|
| Certificate of authority | |
| Application | \$279.86 |
| Renewal | 4.19 |
| Charge per each interment, entombment and inurnment during preceding calendar year | |
| Crematory license/endorsement | |
| Application | 111.95 |
| Renewal | |
| Fifty-five dollars and ninety-seven cents plus fifty-six cents per cremation performed during the preceding calendar year | |
| Prearrangement sales license | |
| Application | 111.95 |
| Renewal | 55.97 |
| Exemption from prearrangement sales license | |
| Application | 55.97 |
| Renewal | 27.99 |
| Cremated remains disposition permit or endorsement | |
| Application | 55.97 |
| Renewal | 27.99 |

[Statutory Authority: RCW 68.05.205, 68.05.225 and 43.24.086. 99-16-079, § 98-70-010, filed 8/3/99, effective 9/3/99; 98-19-053, § 98-70-010, filed 9/15/98, effective 10/16/98. Statutory Authority: RCW 68.05.105. 97-23-010, § 98-70-010, filed 11/7/97, effective 12/8/97. Statutory Authority: RCW 68.05.100. 94-01-117, § 98-70-010, filed 12/17/93, effective 1/17/94; 93-07-041, § 98-70-010, filed 3/12/93, effective 4/12/93. Statutory Authority: RCW 68.05.215. 89-06-074 (Order PM 816), § 98-70-010, filed 3/1/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-70-010, filed 9/6/85. Statutory Authority: RCW 68.05.100 and 68.05.230. 83-24-010 (Order 107), § 98-70-010, filed 11/29/83. Statutory Authority: RCW 68.05.100, 68.05.230 and 68.46.180. 81-24-026 (Order 105), § 98-70-010, filed 11/24/81.]