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Governor of Ohio

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Board Member

The following information is being provided pursuant to the requirements of the Common Sense Initiative office review process (R.C. 107.52, et seq.), which require state agencies, including the State of Ohio Board of Embalmers and Funeral Directors, to draft rules in collaboration with stakeholders, assess and justify an adverse impact on the business community (as defined in R.C. 107.52), and provide an opportunity for the affected public to provide input on the following proposed rules.

Amend:

- 4717-1-01 - Specifies definitions applicable to agency 4717. of the Administrative Code and to all definitions in section 4717.01 of the Revised Code. The rule is amended to specify the requirements of a master embalmer and master funeral director.
- 4717-5-02 - Specifies the Ohio master embalmer and master funeral director training program requirements that must be followed by a master embalmer and master funeral director. The rule is amended to confer the board, in the event the governor has declared a state of emergency, to extend the validity of credentials or exempt requirements to satisfy compliance standards for a specific period. The rule is also amended to consolidate training topics.
- 4717-9-01 - Specifies the Ohio continuing education requirements that must be followed by each person licensed to practice as an embalmer or funeral director in this state. The rule is amended to confer the board, in the event the governor has declared a state of emergency, to extend the validity of credentials or exempt requirements to satisfy compliance standards for a specific period.
- 4717-12-01 - Specifies the Ohio forfeiture schedule the board may impose for violations of Chapter 4717. The rule is amended to reduce minimum fines imposed for a second or subsequent offense for violation of sections 4717.01 to 4717.15 of Chapter 4717. of the Revised Code or a rule adopted under any of those sections.
- 4717-15-02 - Specifies the Ohio renewal of crematory operator permit requirements that must be followed by each person licensed to practice as a crematory operator in this state. The rule is amended to confer the board, in the event the governor has declared a state of emergency, to extend the validity of credentials or exempt requirements to satisfy compliance standards for a specific period.

Comments on the proposed rules will be accepted until close of business on **July 10, 2020**. Please send all comments to the following email address: [info@funeral.ohio.gov](mailto:info@funeral.ohio.gov)

In addition, please copy your comments to: [CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov).

The Business Impact Analysis, along with a copy of the rules, can be accessed here: [www.funeral.ohio.gov](http://www.funeral.ohio.gov)

77 South High Street  
16th Floor  
Columbus, Ohio 43215  
614.466.4252  
fax: 614.728.6825

[www.funeral.ohio.gov](http://www.funeral.ohio.gov)



# Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

## Business Impact Analysis

**Agency, Board, or Commission Name:** Ohio Board of Embalmers and Funeral Directors

**Rule Contact Name and Contact Information:**

Jarrod Williams

jwilliams@funeral.ohio.gov

**Regulation/Package Title (a general description of the rules' substantive content):**

Proposed amendments in response to COVID-19 pandemic

**Rule Number(s):** 4717-1-01; 4717-5-02; 4717-9-01; 4717-12-01; 4717-15-02

**Date of Submission for CSI Review:** 06/26/2020

**Public Comment Period End Date:** July 10, 2020

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/ 5 rules (FYR? Y)

Rescinded/\_\_\_ rules (FYR? \_\_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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CSIPublicComments@governor.ohio.gov

## **Reason for Submission**

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

## **Regulatory Intent**

- 2. Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

Proposed amendments to rules 4717-1-01, 4717-5-02, 4717-9-01 and 4717-15-02 will confer the board, in the event the governor has declared a state of emergency, to extend the validity of credentials or exempt requirements to satisfy compliance standards for a specific period.

Proposed amendments to rule 4717-12-01 will reduce minimum fines imposed for a second or subsequent offense for violation of sections 4717.01 to 4717.15 of Chapter 4717. of the Revised Code or a rule adopted under any of those sections.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

4717-1-01: Statutory Authority: 4717.04(A)(1), 4717.04(B); Rule Amplifies: 4717.06(D)

4717-5-02: Statutory Authority: 4717.04; Rule Amplifies: 4717.05

4717-9-01: Statutory Authority: 4717.04(A)(6); Rule Amplifies: 4717.09

4717-12-01: Statutory Authority: 4717.04; Rule Amplifies: 4717.04

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4717-15-02: Statutory Authority: 4717.04, 4717.051; Rule Amplifies: 4717.051

- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

No.

- 5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The public purpose for these proposed amendments is to protect consumers. The mission of the Board is to protect consumers while regulating the funeral service profession by establishing a standard of competency through the licensing of embalmers, funeral directors, crematory facilities, embalming facilities, and funeral homes.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Board may measure the success of these proposed amendments by retention of licensees. The Board recognizes that individuals licensed under Chapter 4717 may face adversity to comply with regulations in the event the governor has declared a state of emergency, and its efforts to adjust some regulations and compliance standards in response will aid in maintaining adequate licensed individuals in the funeral service profession.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

Stakeholders in the development and drafting of these proposed amendments include licensed funeral directors, embalmers, and crematory operators. Additionally, there are three

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active Associations which represent nearly 100% of funeral service professionals in the state of Ohio: Ohio Funeral Directors Association (OFDA), Buckeye State Funeral Directors and Embalmers Association (BSFDEA), and the Ohio Embalmers Association (OEA).

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Through attendance and participation in the Board's committee meetings and board meetings, OFDA provided its recommendations during the drafting of these proposed amendments.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

A common-sense approach to develop proposed amendments to the rules was used instead of scientific data. The Board recognized potential difficulties licensees may face to comply with regulations during a declared state of emergency and sought ways to provide accommodations as deemed appropriate.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

In late March 2020, the Board considered filing its proposed amendments to at least one rule (4717-9-01) first through filing an emergency rule under the COVID-19 Emergency Declaration. The Board was unable to file.

**13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

No.

**14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

Duplication of existing Ohio regulations is unlikely, as the Board is the only authority to regulate licensed funeral service professionals in the state.

**15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The Board's implementation of its proposed amendments will be applicable to individuals and businesses licensed under Chapter 4717.

**Adverse Impact to Business**

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**16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community; and**
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**
- c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

Overall, the Board’s proposed amendments may or may not create an adverse impact to the business community. In fact, proposed amendments to the following rules reduces or defers a financial impact to individuals and businesses licensed under Chapter 4717. For example:

4717-5-02 – The inclusion of “...or in a virtual classroom or on-demand setting...” provides an opportunity for savings in the cost of the training. Participating in an online course may cost less than a classroom setting, face to face course.

And inclusion of “...the (Board) may extend the validity of a funeral directors and embalmer’s masters training course up to one year from the end of the declared emergency...” provides an opportunity for deferral of the cost of the training course.

4717-9-01 – The inclusion of “... if the (Board) determines that it is a hardship to obtain in-person hours, it may exempt the in-person, face to face requirement (to obtain a minimum of six hours of continuing education)...” provides an opportunity for savings in the cost of the programs. Participating in online courses may cost less than programs conducted in person, face to face.

4717-12-01 – The reduction of the uniform minimum fine of seven thousand five hundred dollars for a second or subsequent offense provides an opportunity for the Board to minimize the disproportionate forfeiture amount to a befitting minimum sanction for violation of sections 4717.01 to 4717.15 of Chapter 4717. of the Revised Code or a rule adopted under any of those sections.

4717-15-02 – The inclusion of “...the (Board) may extend the validity of a crematory operation certification program through the period of the declared emergency, and up to one year from the end of the declared emergency...” provides an opportunity for deferral of the cost of the certification course.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The Board determined that some of its proposed amendments may have an adverse impact on individuals and businesses licensed under Chapter 4717 by imposing a sanction or creating a cause of action for failure to comply with its terms.

**Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

The Board provides exemptions to active-duty military service members in compliance with Chapter 5903 (Veterans' Rights) of the Ohio Revised Code as appropriate.

In 2020, Ohio Governor Mike DeWine signed Senate Bill 7 into law providing opportunity for qualifying members of the military and their spouses with professional licensure or certification in another state to obtain immediate licensure in Ohio.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

The Board will comply with Section 119.14 of the Ohio Revised Code as appropriate.

**20. What resources are available to assist small businesses with compliance of the regulation?**

The Board's website, [www.funeral.ohio.gov](http://www.funeral.ohio.gov) is the main resource for information and guidance on its regulations. The board office staff is also available to assist by telephone, and email correspondence.

4717-1-01

**Definitions.**

For purposes of agency 4717 of the Administrative Code, the following definitions shall apply in addition to all definitions in section 4717.01 of the Revised Code:

(A) "Actually in charge", as used with regard to a funeral home license, means a licensed funeral director who has decision-making authority over the funeral home, including, but not limited to, hiring employees, disciplining employees, and making managerial decisions regarding daily operations.

"Actually in charge", as used with regard to an embalming facility, means a licensed embalmer who has decision-making authority over the embalming facility, including, but not limited to, hiring employees, disciplining employees, and making managerial decisions regarding daily operations.

"Actually in charge", as used with regard to a crematory facility, means a licensed crematory operator who has decision-making authority over the crematory facility, including, but not limited to, hiring employees, disciplining employees, and making managerial decisions regarding daily operations.

(B) "Apprenticeship credit time" means the actual hours of credit of apprenticeship properly certified to the board by the master embalmer and/or master funeral director and approved by the board as having been satisfactorily served.

(C) "Board" means the board of embalmers and funeral directors.

(D) "Business or profession of directing or supervising funerals for profit", means the preparation of the body for final disposition; obtaining necessary permits; filing death certificates and other necessary forms; recording of vital statistics; preparation of necessary notices; making of funeral arrangements; the selling or soliciting of funeral service; coordinating and directing the ceremony or funeral service; or directing the final ceremony or service at the cemetery, crematory, mausoleum, or any other place for the final disposition of a dead human body. Provided, however, that such directing does not conflict with the administrative or operational authority of the cemetery operator at the cemetery, crematory, mausoleum, or other place for the final disposition of a dead human body, and that the cemetery operator who arranges for the final disposition at the cemetery, crematory or mausoleum has not engaged in the business or profession of directing or supervising funerals for profit.

(E) "Embalmer's apprentice" means an individual who has successfully registered with the board, and has been certified as an apprentice to the board by a master embalmer.

(F) "Fixed place" means a physical structure, having a United States post office street,

avenue, or road address.

(G) "Full service funeral" includes a viewing or visitation and formal funeral service, transportation of the body to the funeral site and cemetery, and/or burial, entombment or cremation of the remains.

(H) "Full time" with regard to apprenticeship credit time means a minimum of hours necessary to complete the requirements set forth in the "Funeral Directors or Embalmers Apprenticeship Task List."

"Full time" with regard to the licensure of funeral directors and embalmers and to the operation of a funeral home, embalming facility, or crematory facility means an average of forty hours a week.

(I) "Funeral arranging" or "the process of making funeral arrangements means" the process whereby the funeral director who in good faith meets with the person or persons who arrange for the services or final disposition of a dead human body to determine method of final disposition, the services and total cost, and to provide the person making arrangements with a written statement of price disclosures at the conclusion of arrangements; provided, however, that a cemetery operator who meets with the person or persons to arrange the final disposition or method of final disposition is not "funeral arranging" or performing the "process of making funeral arrangements."

(J) "Funeral director apprentice" means an individual who has successfully registered with the board and has been certified as an apprentice to the board by a master funeral director.

(K) "Holding room" means the area in a funeral home, crematory facility, or embalming facility exclusively used for the preparation (other than embalming) and holding of dead human bodies for burial or final disposition.

(L) "Licensee" means an individual or entity licensed by the board.

(M) "Master or master embalmer" means an embalmer with at least five years of experience in the state of Ohio, who has, successfully completed a training and/or mentoring program for masters, approved by the board, of at least six hours ~~within the past five years,~~ which is still valid, and who is employed or self-employed full time at any one funeral home or embalming facility, whose principal occupation is that of embalming and who certifies to the board as the supervisor of training of an embalmer's apprentice.

- (N) "Master or master funeral director" means a funeral director with at least five years of experience in the state of Ohio who has, successfully completed a training and/or mentoring program for masters, approved by the board, of at least six hours ~~within the past five years;~~ which is still valid. and who is employed or self-employed full time at one funeral home, whose principal occupation is that of funeral directing and who certifies to the board as the supervisor of training of a funeral director's apprentice.
- (O) "Preparation room" or "embalming room" means the area in a funeral home or embalming facility exclusively used for the care and preparation of dead human bodies for burial or final disposition.
- (P) "President" means the president of the board of embalmers and funeral directors
- (Q) "Record" means any document, either written or in electronic form, relating to the operation of a business of directing or supervising funerals for profit; or the operation of an embalming facility or a crematory facility.
- (R) "Secretary-treasurer" means the secretary-treasurer of the board.
- (S) "Trade embalmer" means an embalmer who does embalming for a licensed funeral home by contract or other agreement.
- (T) "Ultimately responsible" a funeral director shall be deemed ultimately responsible for the funeral home, if the funeral home license is held in the funeral director's name and the funeral director has signed the funeral home license application.
- (U) "Abandoned application" means an application for a license or permit as an apprenticeship, embalmer, funeral director, funeral home, crematory, or crematory operator where the applicant fails to complete all application requirements within sixty days after being notified by the board. An applicant forfeits all fees associated with an abandoned application. The board shall not be required to act on any abandoned application and the application may be destroyed by board staff. If the application is abandoned, the applicant shall be required to reapply for licensure, submit the required fee and comply with the licensing requirements in effect at the time of reapplication.

4717-5-02

**Master embalmer and master funeral director training program requirements.**

~~A master embalmer and a master funeral director with five years of experience as an embalmer or funeral director in the state of Ohio must successfully complete training approved by the board. The training must be a one-day six-hour class, not to be offered in segments on separate dates. . The training shall be conducted in a classroom setting, face to face, and open to all licensees. . The training must consist of the following topics:~~

(A) A master embalmer and a master funeral director with five years of experience as an embalmer or funeral director in the in the state of Ohio must successfully complete training approved by the board. The training must be a six-hour class. The training shall be conducted in a classroom setting, face to face, or in a virtual classroom or on-demand setting, and open to all licensees. The training is valid for 5 years.

(1) In the event the governor has declared a state of emergency, the board of embalmers and funeral directors may extend the validity of a funeral directors and embalmer's master training course up to one year from the end of the declared emergency.

(B) The training shall consist of the following topics:

(1) Federal trade commission;

(2) Liturgical and non-liturgical and veterans administration;

(3) Occupational health and safety administration (OSHA);

(4) Chapter 4717. of the Revised Code including, but not limited to, preneed laws and rules, not sales, and cremation laws and rules;

(5) Chapter 4717. of the Administration Code including, but not limited to, preneed laws and rules, not sales, and cremation laws and rules;

(6) Vital statistics laws and rules, including, but not limited to, the electronic death registration system (EDRS);

(7) Duties and responsibilities of a master;

(8) Apprenticeship program and documentation; and

(9) any additional topics deemed appropriate by the board.

~~(A) Federal trade commission;~~

~~(B) Liturgical and non-liturgical and veterans administration;~~

~~(C) Occupational health and safety administration (OSHA);~~

- ~~(D) Preneed laws and rules, not sales;~~
- ~~(E) Vital statistics laws and rules;~~
- ~~(F) Cremation law and rule;~~
- ~~(G) Chapter 4717. of the Revised Code;~~
- ~~(H) Chapter 4717. of the Administrative Code;~~
- ~~(I) Duties and responsibilities of a master;~~
- ~~(J) Apprenticeship program and documentation; and~~
- ~~(K) any additional topics deemed appropriate by the board.~~

4717-9-01

**Continuing education requirements.**

- (A) Pursuant to section 4717.09 of the Revised Code, each person licensed to practice as an embalmer or funeral director in this state shall earn a minimum of eighteen hours of continuing education programs approved by the board for the two year compliance period and every two years thereafter. Compliance shall be required on or before the end of each two-year period following December 31, 2006. The two-year compliance period shall commence on January first of the next two-year compliance period following receipt of the applicant's initial license. Compliance with the requirements of continuing education is a prerequisite for license renewal.
- (B) Pursuant to section 5903.12 of the Revised Code, the board upon receiving an application from one of its licensees that is accompanied by the proper documentation certifying that the licensee or spouse has been called to active duty during the current or prior reporting period and certifying the length of that active duty, shall extend the current reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current reporting period. The board shall also consider relevant education, training, or service completed by a licensee as a member of the armed forces of the United States or reserve components thereof the Ohio National Guard, the Ohio military reserve, or the Ohio naval militia in determining whether a licensee has fulfilled required continuing education.
- (C) Pursuant section 4717.08 of the Revised Code, the board's decision regarding license renewal is made on or before December thirty-first of each even numbered year.
- (D) Hours of continuing education may be obtained by attending and participating in an approved program of activities.
- (E) Approved program of activity
- (1) A program of activity shall be qualified for approval as an approved program of activity if the board determines that:
    - (a) It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee or it conforms to the master training requirements of this chapter; and
    - (b) It pertains to common subjects or other subject matters which integrally relate to the practice of embalming, funeral directing, and cremation.
  - (2) A provider, organization or person which desires to obtain approval of a course,

program or other continuing education activity shall obtain approval prior to the activity. A provider, organization or person shall submit to the board an application established by the board. Except for online and webinar continuing education programs, the application shall be submitted to the board no later than ten business days preceding the board's monthly meeting. A separate application shall be submitted for each course, program, convention, or other continuing education activity desiring approval. The applicant shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers, other pertinent information, and a sample of the certificate of completion. The board shall approve or deny such a completed application that is timely submitted at the next regular meeting of the board. Any program approved by the board will be valid through the current compliance period, providing that there is no change to content. The provider shall notify the board at least fifteen days in advance of offering the approved course or program of all changes including locations, dates, times, or changes of course instructors if the course was previously approved by the board, except when an emergency has occurred closer to the date of the approved course or program, making it necessary to change the location of the course or program. The notice shall be submitted in a manner specified by the board to the board office on a form prescribed by the board.

- (3) Providers approved to offer continuing education must comply with all local, state, and federal law prohibiting discrimination based on race, color, national origin, sex, sexual orientation, religion, gender, disability, and age.
- (F) Except as otherwise provided in this rule, the board may approve thirty minutes of continuing education credit for every thirty minutes of attendance by a licensee at an approved program of activity. A licensee may earn thirty minutes of continuing education credit on an approved program specifically designating thirty-minute increments. Thirty minutes of continuing education credit shall not be awarded on a program approved for full hour increments. Fifty minutes constitutes one hour of continuing education.
- (G) A minimum of six hours of ~~continuing~~ continuing education shall be ~~fulfilled~~ fulfilled through programs that are conducted in person, face to face, and open to all licensees.

Five of the required eighteen hours shall be fulfilled through programs addressing the following topics:

- (1) Ethics (one hour);
- (2) Preneed (two hours); and

(3) Laws and rules regulating the practice of funeral directing, embalming, and cremation (two hours),

(H) In the event the governor has declared a state of emergency, and if the board of embalmers and funeral directors determines that it is a hardship to obtain in-person hours, it may exempt the in-person, face to face requirement for the compliance period during which the state of emergency was declared.

~~(H)~~(I) The board shall not consider individual insurance programs for continuing education credit.

~~(H)~~(J) The board shall allow four hours of credit for licensees who submit a copy of the "licensee continuing education transcript" from the Ohio department of insurance evidencing satisfactory completion of the continuing education requirements for issuance or renewal of an insurance license.

~~(H)~~(K) An individual licensee seeking credit for attendance and participation in an educational activity out of the state of Ohio which is not approved prior to the date of the activity shall submit on a form established by the board within thirty days after completion of such activity, request for credit, including a brief resume of the activity, its dates, subjects, instructors, and their qualifications and the number of credit hours requested therefore and all necessary printed matter. Within ninety days after receipt of such application, the board shall advise the licensee in writing whether the activity is approved and the number of hours. A licensee not complying with the requirements of this paragraph may be denied credit for such activity.

~~(K)~~(L) Certificates of completion must be awarded upon the successful completion of all approved continuing education courses and must include the following information:

(1) Provider's name;

(2) Licensee's name and license number;

(3) Approved course title;

(4) Date of course completion;

(5) Course location;

(6) Number of approved continuing education credit hours awarded;

(7) Signature of provider or representative for provider;

(8) Approved course number;

(9) Required topic category; and

(10) Identify if course or program is a webinar, online, private, or open to all licensees.

~~(H)~~(M) A license shall not be renewed unless the licensee certifies on the renewal application that the individual completed or will complete before the end of the two-year period the required number of continuing education hours specified in paragraph (A) of this rule.

4717-12-01

**Forfeitures.**

(A) For purposes of division (A)(9) of section 4717.04 of the Revised Code, the board may impose a forfeiture for the following types of conduct, which constitute violations of Chapter 4717. of the Revised Code. The licensee shall pay to the executive director of the board the full amount of the forfeiture by credit card, electronic check, or certified check made payable to the board, and received within the time period set forth in section 4717.15 of the Revised Code. The amount of the forfeiture shall be in accordance with the following schedule:

(1) For obtaining a license under this chapter by fraud or misrepresentation either in the application or in passing the required examination for the license, the board may impose a fine as follows:

(a) For a first offense, a minimum fine of one thousand dollars to a maximum fine of five thousand dollars.

(b) For a second or subsequent offense, a minimum fine of ~~seven thousand five hundred dollars~~ two thousand dollars to a maximum fine of ten thousand dollars.

(2) For purposely violating any provision of sections 4717.01 to 4717.15 of the Revised Code or a rule adopted under any of those sections; division (A) or (B) of section 4717.23 of the Revised Code; division (B)(1) or (B)(2), (C)(1) or (C)(2), (D), (E), or (F)(1) or (F)(2), or divisions (H) to (K) of section 4717.26 of the Revised Code; division (D)(1) of section 4717.27 of the Revised Code; or divisions (A) to (C) of section 4717.28 of the Revised Code, the board may impose a fine as follows:

(a) For a first offense, a minimum fine of five hundred dollars to a maximum fine of five thousand dollars.

(b) For a second or subsequent offense, a minimum fine of ~~seven thousand five hundred dollars~~ seven hundred fifty dollars to a maximum fine of ten thousand dollars.

(3) For committing unprofessional conduct, the board may impose a fine as follows:

(a) For a first offense, a minimum fine of five hundred dollars to a maximum fine of five thousand dollars.

(b) For a second or subsequent offense, a minimum fine of ~~seven thousand~~

~~five hundred dollars~~ one thousand dollars to a maximum fine of ten thousand dollars.

- (4) For knowingly permitting an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the licensee's supervision, the board may impose a fine as follows:
  - (a) For a first offense, a minimum fine of two thousand five hundred dollars to a maximum fine of five thousand dollars.
  - (b) For a second or subsequent offense, a minimum fine of ~~seven thousand five hundred dollars~~ five thousand dollars to a maximum fine of ten thousand dollars.
- (5) For refusing to promptly submit the custody of a dead human body or cremated remains upon the express oral or written order of the person legally entitled to the body, the board may impose a fine as follows:
  - (a) For a first offense, a minimum fine of one thousand dollars to a maximum fine of five thousand dollars.
  - (b) For a second or subsequent offense, a minimum fine of ~~seven thousand five hundred dollars~~ two thousand dollars to a maximum fine of ten thousand dollars.
- (6) For transferring a license to operate a funeral home, embalming facility, or crematory facility from one owner or operator to another, or from one location to another without notifying the board, the board may impose a fine as follows:
  - (a) For a first offense, a minimum fine of one thousand dollars to a maximum fine of five thousand dollars.
  - (b) For a second or subsequent offense, a minimum fine of ~~seven thousand five hundred dollars~~ two thousand dollars to a maximum fine of ten thousand dollars.
- (7) For misleading the public using false or deceptive advertising, the board may impose a fine as follows:

- (a) For a first offense, a minimum fine of one thousand dollars to a maximum fine of five thousand dollars.
  - (b) For a second or subsequent offense, a minimum fine of ~~seven thousand five hundred dollars~~ two thousand dollars to a maximum fine of ten thousand dollars.
- (B) If the licensee fails to remit the forfeiture or request a hearing, the board shall issue an order according to division (B) of section 4717.15 of the Revised Code.

4717-15-02

**Renewal of crematory operator permit.**

A crematory operator permit ~~issued~~ issued by the board shall be renewed in accordance with division (A) of section 4717.08 of the Revised Code and division (D) of section 4717.09 of the Revised Code after demonstrating proof to the board the following requirements:

(A) An unexpired and active certification from a board approved crematory operation certification program or in the case of renewal, a board approved crematory operator permit refresher course completion certificate; and

(1) In the event the governor has declared a state of emergency, the board of embalmers and funeral directors may extend the validity of a crematory operation certification program through the period of the declared emergency, and up to one year from the end of the declared emergency.

(B) Within the last twenty-four months, successful completion of a two hour course consisting of laws and rules relevant to this state and specific to crematory operation.



## Ohio Funeral Directors Association

Melissa S. Sullivan, Executive Director  
Melissa@OFDAonline.org

P.O. Box 21760  
2501 North Star Road  
Columbus, OH 43221-0760  
614-486-5339 • 800-589-6332

OFDAonline.org  
fax 614-486-5358 • 800-507-1465

June 22, 2020

Mr. William C. Wappner, CFSP, President  
Ms. Cheryl Grossman, Executive Director  
Ohio Board of Embalmers and Funeral Directors

(correspondence sent via electronic transmission)

Dear President Wappner and Director Grossman,

The Ohio Funeral Directors Association (OFDA), urges the Ohio Board of Embalmers and Funeral Directors (Board) to expediently modify sections of the Ohio Administrative Code (OAC) to allow for hardship considerations during a declared state of emergency. OFDA has over 900 funeral home members and is the largest organization of funeral professionals in the State of Ohio. As such, we are aptly suited to present to the Board the views of funeral homes in Ohio.

During this pandemic, Ohio funeral directors have adapted to recommended best practice guidelines and focused their efforts on safely serving Ohio funeral consumers with respect and compassion. State gathering restrictions not only suggest funeral services be limited but have prohibited funeral directors from obtaining their required six hours of continuing education in a face to face environment. Our Association has received numerous calls and emails from our members seeking relief from some CE and other certification compliance standards stipulated in OAC.

OFDA supports the proposed language contained in OAC sections,

- 4717-1-01 Definitions
- 4717-5-02 Master Embalmer and Funeral Director
- 4717-9-01 Continuing Education Requirements
- 4717-12-01 Forfeitures
- 4717-15-02 Renewal of Crematory Operator Permit

On behalf of the licensed funeral directors and/or embalmers in Ohio, we implore the Board to establish rules that recognize the hardships that may be incurred during a state of emergency and provide accommodations as deemed appropriate by the Board.

Sincerely,

Devin R. Woodyard  
President

Melissa S. Sullivan  
Executive Director