

CEMETERY AND FUNERAL BUREAU

Written Statement

Title 16, California Code of Regulations (CCR)

Section 100 CHANGES WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(a), of the California Code of Regulations (CCR), the Department of Consumer Affairs, Cemetery and Funeral Bureau (Bureau) submits this written statement explaining why the proposed amendments to sections 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2317.1, 2318, 2320, 2321, 2322, 2323, 2324, 2326, and 2328.1, of Article 2, Division 23, of Title 16, of the CCR do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Effective January 1, 2023, Senate Bill (SB) 1443 (Roth, Chapter 625, Statutes of 2022) enacts amendments to the Business and Professions Code (BPC) that fix certain fees the Bureau has established in regulation. As discussed below, these changes are without regulatory effect because they make the Bureau's regulations consistent with changed California statutes and (1) the below referenced sections are inconsistent with and superseded by the changed statutes, and (2) the Bureau has no discretion to adopt fees which differ in substance from the fees set forth in these statutes. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

Subject to the approval of the Office of Administrative Law, the Bureau proposes to add to, revise, delete text, or repeal in the CCR as follows:

A. Amend 16 CCR 2310, 2311, 2326, and 2328.1 of Division 23 of Title 16 of the CCR

1. Section 2310

Section 2310 presently fixes the regulatory charges for a cemetery authority at \$400 and a licensed crematory at \$400. (Cal. Code Regs., tit. 16, § 2310, subs. (a) and (b).) It also provides a quarterly charge of \$8.50 for each burial, entombment, inurnment, cremation, or hydrolysis made during the preceding quarter. (*Ibid.*)

Effective January 1, 2023, SB 1443 amends the annual regulatory charges and quarterly charges as explained below.

BPC section 7730.10 fixes the cemetery authority annual regulatory charge at \$750, and quarterly charge for every burial, entombment, or inurnment made during the preceding quarter at \$11.50. BPC section 7712.9 fixes the crematory annual regulatory charge at \$750, and quarterly charge for every cremation made during the preceding quarter at \$11.50. BPC section 7730.11 fixes the quarterly charge for every hydrolysis facility per hydrolysis made during the preceding quarter at \$11.50.

The Bureau amends the text of subdivisions (a), (b), and (c) to reflect these amendments.

These changes are without regulatory effect because they make the Bureau's regulations consistent with changed California statutes (BPC sections 7712.9, 7730.10, and 7730.11) and (1) section 2310 is inconsistent with and superseded by the changed statutes, and (2) the Bureau has no discretion to adopt fees which differ in substance from the fees set forth in amended section 2310. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

2. Section 2311

Section 2311 presently fixes the initial filing fee for an application for a certificate of authority to operate a cemetery at \$400 and the initial filing fee for an application for a crematory license at \$400. (Cal. Code Regs., tit. 16, § 2311, subs. (a) & (b).)

The Bureau proposes to amend section 2311 because it is inconsistent with amended BPC sections 7653 and 7712.5. Effective January 1, 2023, BPC section 7653 fixes the fee for a certificate of authority (cemetery) at \$750 to defray the expenses the Bureau incurs in its initial investigation of the applicant. BPC section 7712.5(c) fixes the fee for a crematory at \$750 to defray the expenses the Bureau incurs in its initial investigation of the applicant.

These changes are without regulatory effect because they make the Bureau's regulations consistent with changed California statutes (BPC sections 7653 and 7712.5) and (1) section 2311 is inconsistent with and superseded by the changed statutes, and (2) the Bureau has no discretion to adopt fees which differ in substance from the fees set forth in amended section 2311. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

3. Section 2326

Section 2326(a) presently provides:

(a) Certificate of Authority. Applications for a certificate of authority to operate a cemetery shall be

filed on bureau form 23-COA (rev. 1/16), Application for Certificate of Authority, which is hereby incorporated by reference, at the principal office of the bureau. In addition to the payment of the fees required by section 2311 of these rules, each application shall be accompanied by the following:

The Bureau proposes to amend section 2326(a) by changing the revision date to "01/23," based on non-substantive amendments the Bureau intends to make to the form, as discussed below in 4.

This is a change without regulatory effect because the Bureau proposes to make amendments to the form that meet the requirements of section 100(a)(6).

4. Form 23-COA (rev. 1/23) Application for Certificate of Authority

The Bureau proposes to revise Form 23-COA by changing the revision date in form to "rev. 01/23." As amended, BPC section 7653 fixes the fee for a certificate of authority at \$750 to defray the expenses the Bureau incurs in its initial investigation of the applicant, the Bureau proposes to amend the application fee on page 1 of the form to \$750.

These changes are without regulatory effect because they make a form incorporated by reference in the Bureau's regulation consistent with a changed California statute (BPC section 7653) and (1) the fee stated in the form incorporated by reference in section 2326 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2310. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

5. Section 2328.1

Section 2328.1(a) presently provides:

(a) An applicant for examination or licensure as a cemetery manager or crematory manager shall complete an application, Form 21A3 (12/11).

The Bureau proposes to amend section 2328.1(a) by changing the revision date in the 21A3 form to "rev. 01/23," based on non-substantive amendments the Bureau intends to make to the form, as discussed below in 8.

In addition, the Bureau proposes to amend the authority and reference citations. It replaces section 9630 with 7606 in the authority section and replaces section 9702 with 7651.7, section 9723 with 7653.7, and section 9787.3 with 7713.1.

The Bureau strikes “and” replaces it with “and 7730.7” as the statutory authority for the fee for filing the Cemetery Manager and Crematory Manager Application.

This is a change without regulatory effect because the Bureau proposes to make amendments to the form that meet the requirements of section 100(a)(6).

6. Form 21A3 (rev. 1/23) Cemetery or Crematory Manager Application for Examination and/or Licensure

As explained supra, the Bureau proposes to amend section 2328.1 by striking changing the revision date to “rev. 01/23.” As amended BPC section 7730.7(a) fixes a fee of \$680 for a crematory manager examination, and section 7730.7(b) fixes a fee of \$130 to obtain a crematory manager license, the Bureau proposes to amend these fees on page 1 of the form. As amended BPC section 7730.8(b) fixes a license fee of \$130 to obtain a cemetery manager license the Bureau proposes to amend this fee on page 1 and page 5 of the form.

These changes are without regulatory effect because they make a form incorporated by reference in the Bureau’s regulation consistent with changed California statutes (BPC sections 7730.7 and 7730.8) and (1) the form incorporated by reference in section 2328.1 is inconsistent with and superseded by changed statutes, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2328.1. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

B. Repeal Sections 2312, 2313, 2314, 2315, 2316, 2317, 2317.1, 2318, 2320, 2321, 2322, 2323, and 2324 of Division 23 of Title 16 of the CCR

1. Section 2312

Section 2312 presently fixes the cemetery broker original license fee at \$400. Amended BPC section 7729.3 fixes the fee at \$750. The Bureau proposes to repeal section 2312 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau’s regulations consistent with a changed California statute (BPC section 7729.3) and (1) section 2312 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2312. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

2. Section 2313

Section 2313 presently fixes the cemetery broker re-examination fee at \$100. Amended BPC section 7729.4 fixes the re-examination fee at \$190. The Bureau proposes to repeal section 2313 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7729.4) and (1) section 2313 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2313. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

3. Section 2314

Section 2314 presently fixes the cemetery broker license renewal fee at \$300. Amended BPC section 7729.5 fixes the cemetery broker license renewal fee at \$560. The Bureau proposes to repeal section 2314 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7729.5) and (1) section 2314 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2314. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

4. Section 2315

Section 2315 presently fixes the cemetery broker multiple corporate officer or partner license renewal fee at \$100 for each. Amended BPC section 7729.6 fixes the cemetery broker multiple corporate officer or partner license renewal fee at \$190. The Bureau proposes to repeal section 2315 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7729.6) and (1) section 2315 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2315. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

5. Section 2316

Section 2316 presently fixes the cemetery broker branch office license fee at \$100. Amended BPC section 7730 fixes the fee at \$190. The Bureau proposes to

repeal section 2316 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7730) and (1) section 2316 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2316. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

6. Section 2317

Section 2317 presently fixes the crematory manager examination fee at \$450, license fee at \$80, and renewal fee at \$80. Amended BPC section 7730.7 fixes the crematory manager examination fee at \$680, license fee at \$130, and the renewal fee at \$130. The Bureau proposes to repeal section 2317 because it fixes fees which are inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7730.7) and (1) section 2317 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2317. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

7. Section 2317.1

Section 2317.1 presently fixes the cemetery manager examination at \$800, and the license fee at \$80, and the renewal fee at \$80. Amended BPC section 7730.8 fixes the fees for cemetery manager examination fee at \$800, cemetery manager license fee at \$130, and cemetery license renewal fee at \$150. The Bureau proposes to repeal section 2317.1 because it fixes fees which are inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7730.8) and (1) section 2317.1 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2317.1. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

8. Section 2318

Section 2318 presently fixes the cemetery salesman license fee at \$30. Amended BPC section 7729.8 fixes the fee for the cemetery salesperson's

license at \$60. The Bureau proposes to repeal section 2318 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7729.8) and (1) section 2318 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2318. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

9. Section 2320

Section 2320 presently fixes the annual cemetery salesman license renewal fee at \$25. Amended BPC section 7729.10 fixes the fee for annual cemetery salesperson's license renewal at \$50. The Bureau proposes to repeal section 2320 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7729.10) and (1) section 2320 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2320. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

10. Section 2321

Section 2321 presently fixes the change of name or address fee at \$25. Amended BPC section 7730.3 fixes the fee for the change of name or of address of licensee on the records of the Bureau at \$25. The Bureau proposes to repeal section 2321 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7730.3) and (1) section 2321 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2321. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

11. Section 2322

Section 2322 presently fixes the cemetery salesperson transfer fee at \$25. Amended BPC section 7730.4 fixes the fee for transfer of a salesperson's license at \$50. The Bureau proposes to repeal section 2322 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7730.4) and (1) section 2322 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2322. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

12. Section 2323

Section 2323 presently fixes the duplicate license fee at \$25.00. Amended section 7730.5 fixes the duplicate license fee at \$50.00. The Bureau proposes to repeal section 2323 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7730.5) and (1) section 2323 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2323. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

13. Section 2324

Section 2324 presently fixes the reinstatement fee of a cemetery broker's license or salesperson's license at \$25. Amended BPC section 7730.6 fixes the reinstatement of a license fees within the fiscal year for a cemetery broker's license, or a cemetery salesperson's license at \$50.00. The Bureau proposes to repeal section 2324 because it fixes a fee which is inconsistent with the amended statute.

This change is without regulatory effect because it makes the Bureau's regulations consistent with a changed California statute (BPC section 7730.6) and (1) section 2324 is inconsistent with and superseded by the changed statute, and (2) the Bureau has no discretion to adopt a fee which differs in substance from the fee set forth in amended section 2324. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)