

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	

		Agency No.		Rule No.		Section No.
Utah Admin. Code Ref (R no.):	R	156	-	9	-	
Changed to Admin. Code Ref. (R no.):	R		-		-	

1.	Agency:	Commerce/Division of Occupational and Professional Licensing			
	Room no.:				
	Building:	Heber M. Wells Building			
	Street address 1:	160 East 300 South			
	Street address 2:				
	City, state, zip:	Salt Lake City UT 84111-2316			
	Mailing address 1:	PO Box 146741			
	Mailing address 2:				
	City, state, zip:	Salt Lake City UT 84114-6741			
	Contact person(s):				
	Name:	Phone:	Fax:	E-mail:	
	Dan S. Jones	801-530-6720	801-530-6511	dansjones@utah.gov	

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):	Funeral Service Licensing Act Rule			
3.	Type of notice:	New ___; Amendment XXX; Repeal ___; Repeal and Reenact ___			
4.	Purpose of the rule or reason for the change:	The Division and the Funeral Service Licensing Board reviewed the rule and determined proposed amendments are needed to change the requirement for the open book laws and rules exam for funeral service intern applicants to the same laws and rules exam required for other funeral service licensing applicants.			
5.	This change is a response to comments from the Administrative Rules Review Committee.	No XXX; Yes ___			
6.	Summary of the rule or change:	Section 102: The rule citation referenced in paragraph (5) is updated to R156-9-502. Section 302a: Proposed amendments change the requirement for the open book laws and rules exam for funeral service interns to the same laws and rules exam required for other funeral service licensing applicants.			
7.	Aggregate anticipated cost or savings to:				
	A) State budget:				
	Affected:	No ___; Yes XXXX			

The Division will incur minimal costs of approximately \$50.00 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

B) Local government:

Affected: No XXXX; Yes ___

The proposed amendments only apply to applicants for licensure as a funeral service intern. As a result, the proposed amendments do not apply to local governments.

C) Small businesses ("small business" means a business employing fewer than 50 persons):

Affected: No XXX Yes ___

The proposed amendments only apply to applicants for licensure as a funeral service intern. These applicants may work in a small business; however, the proposed amendments would not directly affect the business.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No ___; Yes XXX

Funeral service intern applicants will be required to take and pass the laws and rules exam administered by the Division's contract testing agency at a cost of \$72 rather than the current open book laws and rules exam which does not have a cost. However, these applicants will not then later be required to take the contract testing agency laws and rules exam when they apply for the funeral service director license. In effect this rule eliminates the no cost open book laws and rules exam for a funeral service intern who eventually becomes licensed as a funeral service director. The extra open book test was determined to be a duplicative requirement.

8. Compliance costs for affected persons:

Funeral service intern applicants will be required to take and pass the laws and rules exam administered by the Division's contract testing agency at a cost of \$72 rather than the current open book laws and rules exam which does not have a cost. However, these applicants will not then later be required to take the contract testing agency laws and rules exam when they apply for the funeral service director license. In effect this rule eliminates the no cost open book laws and rules exam for a funeral service intern who eventually becomes licensed as a funeral service director. The extra open book test was determined to be a duplicative requirement.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

This filing imposes an examination requirement on individuals who wish to obtain the funeral service intern license. The cost of the examination is currently \$72. It is anticipated that this cost will be borne by individuals seeking licensure, with no resulting costs to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)
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Section 58-9-504	
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11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; *if none, leave blank*):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)		
Publisher		
Date Issued		
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		

	Cost of Incorporated Reference		
	Action: Adds, updates, or removes		
	(If this rule incorporates more than two items by reference, please attach additional pages)		
12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):	10/01/2014	
	B) A public hearing (optional) will be held:		
	On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
	09/08/2014	9:00 AM	160 East 300 South, Conference Room 464 (4th floor), Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):	10/08/2014	
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency:		
	funeral industries	licensing	
	funeral directors	preneed funeral arrangements	
15.	Attach an RTF document containing the text of this rule change (filename):	R156-9.pro	
To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	08/05/2014

R156. Commerce, Occupational and Professional Licensing.

R156-9. Funeral Service Licensing Act Rule.

R156-9-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 9, as defined or used in this rule:

(1) "Contract" means a guaranteed preneed funeral arrangement contract.

(2) "Funeral service establishment" is defined in Subsection 58-9-102(18).

(3) "Guaranteed product contract" means a contract wherein goods or services are selected which will be provided at the time of need for the consideration specified in the contract regardless of the market price at the time of need.

(4) "Recipient of goods and services" is synonymous with "beneficiary" as defined in Subsection 58-9-102(2), and is used herein to avoid confusion with various common meanings of the term "beneficiary".

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 9, is further defined in accordance with Subsection 58-1-203(1)(e) in Section R156-9-~~501~~502.

R156-9-302a. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(1)(d) and 58-1-301(3), the qualifications for licensure in Subsections 58-9-302(1)(g), 58-9-302(2)(e), 58-9-302(4)(e) and 58-9-306(6) and (7) are defined, clarified, or established as follows:

(1) An applicant for licensure as a funeral service director shall ~~[be required to]~~ pass the National Board Examinations (science and art sections) of the Conference of Funeral Service Examining Boards. The examination may be taken while the individual is enrolled in an approved funeral service school.

(2) ~~[An applicant for licensure as a funeral service intern shall answer correctly all the law and rule questions in the open book examination contained in the application.~~

~~—(3)—~~ An applicant for licensure as a funeral service director, funeral service intern, preneed sales agent or funeral service director by endorsement shall pass the Utah Funeral Service Law and Rule Examination with a score of at least 75%.

(~~4~~)3) An individual who fails the Utah Funeral Service Law and Rule Examination may retake the failed examination:

(a) no more than three times within a six month period; and

(b) no earlier than three months following any failure thereafter.

KEY: funeral industries, licensing, funeral directors, preneed funeral arrangements

Date of Enactment or Last Substantive Amendment: ~~[June 21, 2012]~~2014

Notice of Continuation: September 26, 2011

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-

202 (1) (a) ; 58-9-504