

**ARTICLE 54 135**  
**Cemeteries MORTUARIES AND CREMATORIES**

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**MORTUARY SCIENCE CODE**

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PART 1  
MORTUARY SCIENCE CODE

1           **12-135-101. [Formerly 12-54-101] Short title.** THE SHORT TITLE OF this article shall  
2 ~~be known and may be cited as~~ **135** IS the "Mortuary Science Code".  
3

4           **12-135-102. Applicability of common provisions.** ARTICLES 1 AND 20 OF THIS TITLE  
5 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 135.  
6

7           **12-135-103. [Formerly 12-54-102] Definitions.** As used in this article **135**, unless  
8 the context otherwise requires:

9           (1) "Alternative container" means a nonmetal receptacle or enclosure, without  
10 ornamentation or a fixed interior lining, that is designed for the encasement of human  
11 remains and is made of fiberboard, pressed wood, composition materials, or other similar  
12 materials.

13           (2) "Casket" means a rigid container that is designed for the encasement of human  
14 remains and is ornamented and lined with fabric.

15           (3) "Cremated remains" or "cremains" means all human remains recovered after  
16 cremation, including pulverization, that leaves only bone fragments that have been reduced  
17 to unidentifiable dimensions.

18           (4) "Cremation" or "cremate" means the reduction of human remains to essential  
19 elements, the processing of the remains, and the placement of the processed remains in a  
20 cremated remains container.

21           ~~(4.3)~~ (5) "Cremation chamber" means the enclosed space inside of which human  
22 remains are cremated.

23           ~~(4.5)~~ (6) "Cremation container" means a container in which the human remains are  
24 transported to the crematory and intended to be placed in the cremation chamber.

25           ~~(4.7)~~ (7) "Cremationist" means a person who cremates or prepares for cremation  
26 human remains.

27           ~~(5)~~ (8) "Crematory" means a building, facility, establishment, or structure where  
28 human remains are cremated.

29           ~~(5.3)~~ (9) "Custodian" means the person with possession and control of human

1 remains.

2 ~~(5.5)~~ (10) "Designee" means an individual designated by a funeral establishment  
3 registered in accordance with section ~~12-54-110~~ **12-135-110** or ~~12-54-303~~ **12-135-303**.

4 ~~(5.7)~~ "Director" means the director of the division of professions and occupations or  
5 the director's designee. <{\bRedundant with definitions common provision, section 12-20-102  
6 (6)}>

7 ~~(6)~~ "Division" means the division of professions and occupations created in section  
8 ~~24-34-102, C.R.S.~~ <{\bRedundant with definitions common provision, section 12-20-102  
9 (7)}>

10 ~~(7)~~ (11) "Embalm" or "embalming" means the disinfection and temporary  
11 preservation of human remains by chemically treating the body to reduce the presence and  
12 growth of organisms, to retard organic decomposition, or to attempt restoration of the  
13 physical appearance.

14 ~~(8)~~ (12) "Embalmer" means any person who embalms, or prepares for embalming,  
15 human remains for compensation.

16 ~~(9)~~ (13) "Final disposition" means the disposition of human remains by entombment,  
17 burial, cremation, or removal from the state.

18 ~~(10)~~ (14) "Funeral", "funeral service", or "funeral ceremony" means a service or rite  
19 commemorating the deceased and at which service or rite the body of the deceased is present.

20 ~~(11)~~ (15) "Funeral director" means a person who, for compensation:

21 (a) Arranges, directs, or supervises funerals, memorial services, or graveside services;

22 or

23 (b) Prepares human remains for final disposition by means other than embalming.

24 ~~(12)~~ (16) "Funeral establishment", "funeral home", or "mortuary" means:

25 (a) An establishment that holds, cares for, or prepares human remains prior to final  
26 disposition, including a crematory or embalming room; except that this paragraph (a)  
27 SUBSECTION (16)(a) does not apply to establishments in which individuals regularly die;

28 (b) An establishment that holds itself out to the general public as providing funeral  
29 goods and services;

30 (c) Facilities used to hold, care for, or prepare human remains prior to final  
31 disposition; except that this paragraph (c) SUBSECTION (16)(c) does not apply to facilities in  
32 which individuals regularly die; or

33 (d) An establishment that provides funeral or memorial services to the public for  
34 compensation.

35 ~~(13)~~ (17) "Funeral goods" means goods that are sold or offered for sale directly to the  
36 public for use in connection with funeral or cremation services.

37 ~~(14)~~ (18) "Funeral services" means:

38 (a) Preparation of human remains for final disposition; except that this paragraph (a)  
39 SUBSECTION (18)(a) does not apply to cremation;

40 (b) Arrangement, supervision, or conduct of the funeral ceremony or the final  
41 disposition of human remains; or

1 (c) Transportation of human remains to or from a funeral establishment.

2 ~~(14.2)~~ (19) "Human remains" means the physical remains of a dead human.

3 ~~(14.5)~~ (20) "Implanted device" means a mechanical device that may explode or cause  
4 damage to crematory equipment.

5 ~~(15)~~ (21) "Memorial service" means a service or rite commemorating the deceased  
6 and at which service or rite the body of the deceased is not present.

7 ~~(16)~~ (22) "Mortuary science practitioner" means a person who, for compensation,  
8 does the following or offers to do the following:

9 (a) Embalms or cremates human remains;

10 (b) Arranges, directs, or supervises funerals, memorial services, or graveside services;  
11 or

12 (c) Prepares human remains for final disposition.

13 ~~(17)~~ (23) "Next of kin" means a family member or members of the deceased who,  
14 under Colorado law, have legal authority over the disposition of human remains.

15 ~~(17.5)~~ (24) "Ossuary" means a receptacle used for the communal placement of  
16 cremated remains, without using an urn or other container, in which cremated remains are  
17 commingled with other cremated remains.

18 ~~(18)~~ (25) "Preneed contract" means a preneed contract as defined in section  
19 10-15-102 (13). ~~C.R.S.~~

20 ~~(19)~~ (26) "Preparation of the body" means embalming, washing, disinfecting,  
21 shaving, dressing, restoring, casketing, positioning, caring for the hair of or applying  
22 cosmetics to human remains.

23 ~~(20)~~ (27) "Processing" means the removal of foreign objects from cremated remains  
24 and the reduction of such THE remains by mechanical means to granules appropriate for final  
25 disposition.

26  
27 **12-135-104. [Formerly 12-54-103] Funeral establishment.** (1) A funeral  
28 establishment shall have the appropriate equipment and personnel to adequately provide the  
29 funeral services it contracts to provide and shall provide written notice to the consumer  
30 specifying any subcontractors or agents routinely handling or caring for human remains. To  
31 comply, the notice must be given when the consumer inquires about the goods or services the  
32 funeral establishment provides and must include the names and addresses of the  
33 subcontractors, agents, or other providers; except that, if the inquiry is over the telephone,  
34 the written notice must be provided when the customer finalizes the arrangements for goods  
35 or services with the funeral establishment.

36 (2) A funeral establishment shall retain all documents and records concerning the  
37 final disposition of human remains for at least seven years after the disposition.

38  
39 **12-135-105. [Formerly 12-54-104] Unlawful acts.** (1) It is unlawful:

40 (a) To disinfect or preserve or to make final disposition of human remains with  
41 knowledge sufficient to arouse a reasonable suspicion of a crime in connection with the cause

1 of death of the deceased until the permission of the coroner, deputy coroner, or district  
2 attorney, if there is no coroner, has been first obtained;

3 (b) To discriminate because of race, creed, color, religion, disability, sex, sexual  
4 orientation, marital status, national origin, or ancestry in the provision of funeral services;

5 (c) For any public officer or employee or any other person having a professional  
6 relationship with the decedent to approve or cause the final disposition of human remains in  
7 violation of this article **135**;

8 (d) For a person in the business of paying for or providing death benefits, funerals,  
9 funeral ceremonies, final dispositions, or preneed contracts to pay or provide benefits in a  
10 manner that deprives the next of kin or legal representative of the right to use those payments  
11 or benefits at a funeral establishment of his or her choice;

12 (e) For a funeral director, mortuary science practitioner, embalmer, funeral  
13 establishment, or facility in which people regularly die or ~~such~~ THE person's or facility's agent  
14 to engage in a business practice that interferes with the freedom of choice of the general  
15 public to choose a funeral director, mortuary science practitioner, embalmer, or funeral  
16 establishment;

17 (f) For a county coroner to violate section 30-10-619; ~~C.R.S.~~;

18 (g) To transport or otherwise transfer by common carrier human remains unless:

19 (I) A funeral director, mortuary science practitioner, or embalmer has embalmed or  
20 hermetically sealed the body for transportation and complies with applicable common carrier  
21 law; or

22 (II) The transport or transfer is to a funeral establishment, funeral director, or  
23 embalmer within the state of Colorado;

24 (h) To advertise as holding a degree, a certificate of registration, a professional  
25 license, or a professional certification issued by a state, political subdivision, or agency  
26 unless the person holds ~~such~~ THE degree, registration, license, or certification and it is current  
27 and valid at the time of advertisement;

28 (i) For a funeral director, mortuary science practitioner, or embalmer to admit or  
29 permit any person to visit the embalming, cremation, or preparation room during the time a  
30 body is being embalmed, cremated, or prepared for final disposition, unless the person:

31 (I) Is a funeral director, mortuary science practitioner, cremationist, or embalmer;

32 (II) Is an authorized employee of a funeral establishment;

33 (III) Has the written consent of the next of kin of ~~such~~ THE deceased person or of a  
34 person having legal authority to give ~~such~~ permission in the absence of any next of kin;

35 (IV) Enters by order of a court of competent jurisdiction or IS a peace officer ~~level~~  
36 ~~I, Ia, II, III, or IIIa~~ AS DESCRIBED IN ARTICLE 2.5 OF TITLE 16; <{***The references to these***  
37 ***peace officer levels were mostly repealed in 2003, so this is a technical correction.***>

38 (V) Is a student enrolled in a mortuary science program;

39 (VI) Is a registered or licensed nurse with a medical reason to be present;

40 (VII) Is a licensed physician or surgeon with a medical reason to be present;

41 (VIII) Is a technician representing a procurement organization as defined in section

1 15-19-202 for purposes of an anatomical gift; or

2 (IX) Is the director or the director's designee;

3 (j) To refuse to properly and promptly release human remains or cremated remains  
4 to the custody of the person who has the legal right to effect ~~such~~ THE release whether or not  
5 any costs have been paid;

6 (k) To tell a person that a casket is required when the expressed wish is for immediate  
7 cremation;

8 (l) To embalm or cremate human remains without obtaining permission from the  
9 person with the right of final disposition unless otherwise required by section ~~12-54-105~~  
10 **12-135-106**;

11 (m) To prohibit, hinder, or restrict or to attempt to prohibit, hinder, or restrict the  
12 following:

13 (I) The offering or advertising of immediate cremation, advance funeral  
14 arrangements, or low-cost funerals;

15 (II) Arrangements between memorial societies and funeral industry members; or

16 (III) A funeral service industry member from disclosing accurate information  
17 concerning funeral merchandise and services;

18 (n) To engage in willfully dishonest conduct or commit negligence in the practice of  
19 embalming, funeral directing, or providing for final disposition that defrauds or causes injury  
20 or is likely to defraud or cause injury;

21 (o) To fail to include in a contract for funeral services the following statement:  
22 "INQUIRIES REGARDING YOUR FUNERAL AGREEMENT MAY BE DIRECTED TO  
23 THE DEPARTMENT OF REGULATORY AGENCIES", along with the current address or  
24 telephone number of the department; ~~of regulatory agencies~~;

25 (p) For a person owning an indirect interest with more than ten-percent ownership in  
26 a funeral establishment or for a person owning a direct interest in a funeral establishment to  
27 own an indirect interest with more than ten-percent ownership in a nontransplant tissue bank,  
28 as defined in section ~~12-54.5-101 (5)~~ **12-140-101 (5)**, or to own a direct interest in a  
29 nontransplant tissue bank. *<{The updated cross reference was changed to 102 (5) on the  
30 assumption that a new section 101 regarding the applicability of common provisions will  
31 be added to article 140.}>*

32 (2) For purposes of this section only, "next of kin" shall not include any person who  
33 is arrested on suspicion of having committed, is charged with, or has been convicted of, any  
34 felony offense specified in part 1 of article 3 of title 18 ~~C.R.S.~~, involving the death of the  
35 deceased person. If charges are not brought, charges are brought but dismissed, or the person  
36 charged is acquitted of the alleged crime before final disposition of the deceased person's  
37 body, this subsection (2) shall not apply.

38  
39 **12-135-106. [Formerly 12-54-105] Care of bodies required - public health.** A  
40 funeral establishment shall embalm, refrigerate, cremate, bury, or entomb human remains  
41 within twenty-four hours after taking custody of the remains.

1           **12-135-107. [Formerly 12-54-106] Consumer protection.** (1) A funeral  
2 establishment whose services are purchased shall make every reasonable attempt to fulfill  
3 the expressed needs and desires of the person with the right of final disposition, and shall  
4 make a full disclosure of all its available services and merchandise to the arrangers prior to  
5 selection of the casket.

6           (2) Before a person selects the funeral, the funeral establishment shall provide a  
7 written itemized list of the prices of all available merchandise and individual services at that  
8 funeral establishment. Full disclosure shall also be made in the case of a memorial service  
9 and as to use of funeral merchandise and facilities. In no event shall ~~such~~ THE person be  
10 required to purchase services or products contained on the itemized list that are not desired  
11 for the funeral unless ~~such~~ THE services or goods are required by law.

12           (3) Any statements of legal or practical requirements shall be complete and accurate,  
13 including the conditions under which embalming is required or advisable. Representations  
14 as to the use or necessity of a casket or alternative container in connection with a funeral or  
15 alternatives for final disposition shall be truthful and shall disclose all pertinent information.

16           (4) When quoting funeral prices, either orally, by use of a disclosure statement, or by  
17 a final bill, the funeral establishment shall only list those items as cash advances or  
18 accommodation items that are paid for or could be paid for by the next of kin in the same  
19 amount that is paid by the funeral home.

20  
21           **12-135-108. [Formerly 12-54-107] Violations and penalties.** Any person who  
22 violates this part 1 or part 3 of this article *135* is guilty of a misdemeanor and, upon  
23 conviction, shall be punished by a fine of not more than five thousand dollars or by  
24 imprisonment in the county jail for not more than twenty-four months or by both such fine  
25 and imprisonment. <{*Given that this provision is unique, it is specifically excepted from*  
26 *the unauthorized practice common provision, 12-20-408 (2)(a).*}>

27  
28           **12-135-109. [Formerly 12-54-108] Exceptions - safe harbor.** (1) This part 1 shall  
29 not apply to, or in any way interfere with, the duties of the following persons:

30           (a) An officer of a public institution;

31           (b) An officer of a medical college, county medical society, anatomical association,  
32 or college of embalming; or

33           (c) A person acting under the authority of ~~part 2 of article 34 of this title~~ PART 3 OF  
34 ARTICLE 19 OF TITLE 15. <{*This is a missed conforming amendment in a title 12 bill from*  
35 *two years ago to move part 2, article 34 of title 12 to part 3 of article 19 of title 15.*}>

36           (2) (a) This part 1 shall not apply to, nor in any way interfere with, any custom or rite  
37 of any religious sect in the burial of its dead, and the members and followers of the religious  
38 sect may continue to provide memorial services for, care for, prepare, and bury the bodies  
39 of deceased members of the religious sect, free from any term or condition, or any provision  
40 of this part 1, and are not subject to this part 1, so long as the human remains are refrigerated,  
41 frozen, embalmed, interred, or cremated within seven days after death.

1 (b) If human remains are refrigerated or embalmed pursuant to ~~paragraph (a) of this~~  
2 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION, the body must be interred, frozen, or  
3 cremated within thirty days after death unless the coroner authorizes otherwise in writing.  
4 The coroner shall not permit an exception to this ~~paragraph (b)~~ SUBSECTION (2)(b) unless the  
5 applicant can demonstrate a legitimate delay caused by unforeseen uncontrollable  
6 circumstances or by a criminal investigation.

7 (c) Notwithstanding this subsection (2), upon the receipt of evidence that the human  
8 remains likely contained a serious contagious disease, the state department of public health  
9 and environment, the state board of health, or a local department of health may issue an order  
10 overruling this subsection (2).

11 (3) A person who sells or offers to sell caskets, urns, or other funeral goods, but does  
12 not provide funeral services, shall not be subject to this article **135**.

13 (4) If a funeral director, mortuary science practitioner, or embalmer has acted in good  
14 faith, the funeral director, mortuary science practitioner, or embalmer may rely on a signed  
15 statement from a person with the right of final disposition under section 15-19-106 ~~C.R.S.~~;  
16 that:

17 (a) The person knows of no document expressing the deceased's wishes for final  
18 disposition that qualifies to direct the final disposition under section 15-19-104; ~~C.R.S.~~;

19 (b) The person has made a reasonable effort under section 15-19-106 ~~C.R.S.~~ to  
20 contact each person with the right of final disposition and to learn his or her wishes; and

21 (c) The person knows of no objections to the final disposition.

22 (5) (a) (I) A funeral establishment, funeral director, or mortuary science practitioner  
23 may dispose of cremated remains at the expense of the person with the right of final  
24 disposition one hundred eighty days after cremation if the person was given clear prior notice  
25 of this ~~paragraph (a)~~ SUBSECTION (5)(a) and a reasonable opportunity to collect the cremated  
26 remains, the exact location of the final disposition and the costs associated with the final  
27 disposition are recorded, and the recovery of the cremated remains is possible. Recovery of  
28 costs is limited to a reasonable amount of the costs actually expended by the funeral  
29 establishment, funeral director, or mortuary science practitioner.

30 (II) A funeral establishment, funeral director, or mortuary science practitioner may  
31 comply with this ~~paragraph (a)~~ SUBSECTION (5)(a) by transferring the cremated remains and  
32 the records showing the funeral establishment and the deceased's name, date of birth, and  
33 next of kin for final disposition to a facility or place normally used for final disposition if the  
34 new custodian can comply with this ~~paragraph (a)~~ SUBSECTION (5)(a).

35 (III) If cremated remains are not claimed by the person with the right of final  
36 disposition within three years after cremation, a funeral establishment, funeral director, or  
37 mortuary science practitioner may dispose of the remains in an unrecoverable manner by  
38 placing the remains in an ossuary or by scattering the remains in a dedicated cemetery,  
39 scattering garden, or consecrated ground used exclusively for these purposes.

40 (IV) The custodian is not liable for the loss or destruction of records required to be  
41 kept by this ~~paragraph (a)~~ SUBSECTION (5)(a) if the loss or destruction was not caused by the



1 custodian's negligence.

2 (b) If the person was cremated prior to July 1, 2003, and the funeral director or  
3 mortuary science practitioner reasonably attempts to notify the person with the right of final  
4 disposition of the provisions of this subsection (5), the cremated remains may be disposed  
5 of in accordance with this subsection (5) notwithstanding a failure to provide the notice of  
6 the provisions of this subsection (5) to the person with the right of final disposition prior to  
7 disposing of the remains.

8  
9 **~~12-54-109. Effect of criminal charges. (Repealed)~~**

10  
11 **12-135-110. [Formerly 12-54-110] Registration required.** (1) Unless practicing at  
12 a registered funeral establishment pursuant to this section, a person shall not practice as, or  
13 offer the services of, a mortuary science practitioner, funeral director, or embalmer, nor shall  
14 the funeral establishment sell or offer to sell funeral goods and services to the public.

15 (2) (a) Each funeral establishment shall register with the director using forms as  
16 determined by the director. The registration shall include the following:

17 (I) The specific location of the funeral establishment;

18 (II) The full name and address of the designee appointed pursuant to subsection (3)  
19 of this section;

20 (III) The date the funeral establishment began doing business; and

21 (IV) A list of each of the following services provided at each funeral establishment  
22 location:

23 (A) Refrigerating or holding human remains;

24 (B) Embalming human remains;

25 (C) Transporting human remains to or from the funeral establishment or the place of  
26 final disposition;

27 (D) Providing funeral goods or services to the public; and

28 (E) Selling preneed contracts.

29 (b) Each funeral establishment registration shall be renewed, according to a schedule  
30 established by the director IN ACCORDANCE WITH SECTION 12-20-202 (1), in a form as  
31 determined by the director.

32 (c) If, after initial registration, the funeral establishment provides a service listed in  
33 ~~subparagraph (IV) of paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a)(IV) OF THIS  
34 SECTION that was not included in the initial registration, the funeral establishment shall  
35 submit an amended registration within thirty days after beginning to provide the new service.

36 (d) If, after initial registration, the funeral establishment appoints a new designee, the  
37 funeral establishment shall submit an amended registration within thirty days after appointing  
38 the designee.

39 ~~(e) The director may establish registration fees, renewal fees, and delinquency fees~~  
40 ~~for reinstatement pursuant to section 24-34-105, C.R.S. If a funeral establishment fails to~~  
41 ~~renew the registration in accordance with the schedule established by the director, the~~

1 registration shall expire SECTIONS 12-20-105 AND 12-20-202 (1) AND (2) GOVERN FEES FOR,  
2 AND RENEWAL, EXPIRATION, AND REINSTATEMENT OF, REGISTRATIONS UNDER THIS PART 1.  
3 <{Redundant with 12-20-105 and 12-20-202 (1) & (2). Recommend amending as  
4 indicated.}>

5 (3) Each funeral establishment shall appoint an individual as the designee of the  
6 funeral establishment. A designee shall:

- 7 (a) Be at least eighteen years of age;  
8 (b) Have at least two years' experience working for a funeral establishment;  
9 (c) Be employed by the registered funeral establishment that the designee represents;  
10 (d) Have the authority within the funeral establishment's organization to require that  
11 personnel comply with this article 135; and

12 (e) Not be designated for more than one funeral establishment unless the additional  
13 establishment is operated under common ownership and management and no funeral  
14 establishment is more than sixty miles from another establishment held under the same  
15 ownership conditions.

16 (4) The designee shall require each person employed at the funeral establishment to  
17 demonstrate evidence of compliance with section ~~12-54-111~~ 12-135-111. The designee shall  
18 retain the records of such THE EVIDENCE OF COMPLIANCE so long as the person is employed  
19 at the funeral establishment.

20 (5) This section shall not require the registration of a nonprofit organization that only  
21 provides education or support to an individual who intends to provide for final disposition  
22 of human remains.

23  
24 **12-135-111. [Formerly 12-54-111] Title protection.** (1) A person shall not  
25 advertise, represent, or hold oneself out as or use the title of a mortuary science practitioner  
26 unless the person:

27 (a) Has at least two thousand hours practicing or interning as a mortuary science  
28 practitioner, including, without limitation, experience in cremation and embalming;

29 (b) Has graduated with a certificate, diploma, or degree in mortuary science from:

30 (I) A program accredited by the American Board of Funeral Service Education or its  
31 successor, if the successor is approved by the director, and the program is part of a school  
32 of higher education; or

33 (II) A school of higher education accredited by the American Board of Funeral  
34 Service Education or its successor, if the successor is approved by the director; and

35 (c) Has taken the mortuary science test, known as the national board examination,  
36 administered by the international conference of funeral service examining boards or its  
37 successor, if the successor is approved by the director, and received a passing score.

38 (2) A person shall not advertise, represent, or hold oneself out as or use the title of  
39 a funeral director unless the applicant:

40 (a) Has at least two thousand hours practicing or interning as a funeral director; and

41 (b) Has directed at least fifty funerals or graveside services.

1 (3) A person shall not advertise, represent, or hold oneself out as or use the title of  
2 an embalmer unless the applicant:

3 (a) Has at least four thousand hours practicing or interning as an embalmer; and

4 (b) Has embalmed at least fifty human remains.

5 (4) For purposes of this section, intern or practice hours from Colorado or any other  
6 state shall meet the standards set by this section.

7  
8 **12-135-112. [Formerly 12-54-112] Standards of practice - embalming -**  
9 **transporting.** (1) A funeral establishment that performs embalming shall:

10 (a) Maintain a sanitary preparation room with sanitary flooring, drainage, and  
11 ventilation;

12 (b) Employ universal biological hazard precautions;

13 (c) Employ reasonable care to minimize the risk of transmitting communicable  
14 diseases from human remains;

15 (d) Be equipped with instruments and supplies necessary to protect the health and  
16 safety of the public and employees of the funeral establishment; and

17 (e) Transport human remains in a safe and sanitary manner.

18 (2) A funeral establishment that transports human remains shall:

19 (a) Use a motor vehicle that is appropriate for the transportation of human remains;  
20 and

21 (b) Transport human remains in a safe and sanitary manner.

22 (3) A funeral establishment shall remove any implanted device in human remains  
23 before transporting the body to a crematory.

24  
25 **12-135-113. [Formerly 12-54-113] Custody and responsibility - rules.** (1) A  
26 funeral establishment shall not, through its managers, employees, contractors, or agents, take  
27 custody of human remains without an attestation of positive identification on a form  
28 promulgated by the director by rule by:

29 (a) The next of kin;

30 (b) The county coroner or the county coroner's designee; or

31 (c) An authorized person at the care facility where the deceased died.

32 (2) A funeral establishment is responsible for identifying and tracking human remains  
33 from the time it takes custody of human remains until the:

34 (a) Final disposition has occurred or the remains are returned to the person who has  
35 the right of final disposition;

36 (b) Human remains are released in accordance with the instructions given by the  
37 person who has the right of final disposition; or

38 (c) Remains are released to another funeral establishment, crematory, repository, or  
39 entity as authorized by the person who has the right of final disposition.

40 (3) The director shall adopt rules implementing this section that:

41 (a) Establish what constitutes custody;

1 (b) Define "care facility", "repository", and "entity";

2 (c) Establish who is authorized to identify human remains at a care facility for a  
3 funeral establishment; and

4 (d) Prescribe the minimum standards for the positive identification and chain of  
5 custody of human remains. A funeral establishment may use the establishment's own  
6 procedures if the procedures meet or exceed the minimum standards of the rule promulgated  
7 by the director.

8  
9 PART 2

10 ASSESSMENT OF MORTUARIES

11  
12 **12-135-201. [Formerly 12-54-201] Mortuaries in cemeteries not exempt.** No  
13 person, firm, association, partnership, or corporation engaged in the ownership, operation,  
14 or management of a cemetery or mausoleum in this state ~~which~~ THAT is exempt from  
15 payment of general property taxes, shall, either directly or indirectly, own, manage, conduct,  
16 or operate a funeral home or mortuary in ~~such~~ THE cemetery or mausoleum, or adjacent  
17 thereto and in connection therewith, unless ~~said~~ THE cemetery or mausoleum and funeral  
18 home or mortuary is listed for assessment purposes. The attorney general, county attorney,  
19 or any interested party may maintain injunction proceedings to prevent any violation of this  
20 section.

21  
22 PART 3

23 CREMATION

24  
25 **12-135-301. [Formerly 12-54-301] Unlawful acts.** (1) It is unlawful for a crematory:

26 (a) To discriminate because of race, creed, color, religion, sex, marital status, sexual  
27 orientation, or national origin in the provision of funeral services;

28 (b) To approve or cause the final disposition of human remains in violation of this  
29 article *135*;

30 (c) To engage in a business practice that interferes with the freedom of choice of the  
31 general public to choose a funeral director, mortuary science practitioner, cremationist,  
32 embalmer, or funeral establishment;

33 (d) To advertise as holding a degree, a certificate of registration, a professional  
34 license, or a professional certification issued by a state, political subdivision, or agency  
35 unless the person holds such THE degree, registration, license, or certification and it is current  
36 and valid at the time of advertisement;

37 (e) To admit or permit any person to visit the crematory or preparation room during  
38 the time a body is being cremated or prepared for final disposition unless the person:

39 (I) Is a funeral director, mortuary science practitioner, or cremationist;

40 (II) Is an authorized employee of a crematory;

41 (III) Has the written consent of the next of kin of the deceased person or of a person

1 having legal authority to give consent in the absence of any next of kin;

2 (IV) Enters by order of a court of competent jurisdiction or IS a peace officer level  
3 ~~I, Ia, H, III, or IIIa~~ AS DESCRIBED IN ARTICLE 2.5 OF TITLE 16; <{*The references to these*  
4 *peace officer levels were mostly repealed in 2003, so this is a technical correction.*}>

5 (V) Is a student or intern enrolled in a mortuary science program;

6 (VI) Is a registered or licensed nurse with a medical reason to be present;

7 (VII) Is a licensed physician or surgeon with a medical reason to be present;

8 (VIII) Is a technician representing a procurement organization as defined in section  
9 15-19-202 for purposes of an anatomical gift; or

10 (IX) Is the director or the director's designee;

11 (f) To refuse to properly and promptly release human remains to the custody of the  
12 person who has the legal right to effect the release, whether or not any costs have been paid,  
13 unless there is a good-faith dispute over who controls the right of final disposition;

14 (g) To cremate human remains without obtaining permission from the person with  
15 the right of final disposition;

16 (h) To prohibit, hinder, or restrict, or attempt to prohibit, hinder, or restrict, the  
17 following:

18 (I) The offering or advertising of immediate cremation, advance funeral  
19 arrangements, low-cost funerals, or low-cost cremations;

20 (II) Arrangements between memorial societies and funeral industry members; or

21 (III) A funeral service industry member from disclosing accurate information  
22 concerning funeral merchandise and services;

23 (i) To cremate human remains in a facility unless the facility is registered pursuant  
24 to section ~~12-54-303~~ **12-135-303**;

25 (j) To refuse to accept human remains that are not in a casket or to require human  
26 remains to be placed in a casket at any time;

27 (k) To allow a crematory operator to perform services beyond an operator's  
28 competency, training, or education;

29 (l) To engage in willfully dishonest conduct or commit negligence in the practice of  
30 cremation or providing for final disposition that defrauds or causes injury or is likely to  
31 defraud or cause injury.

32 (2) For purposes of this section only, "next of kin" shall not include any person who  
33 is arrested on suspicion of having committed, is charged with, or has been convicted of, any  
34 felony offense specified in part 1 of article 3 of title 18 ~~C.R.S.~~, involving the death of the  
35 deceased person. This subsection (2) shall not apply if charges are not brought, charges are  
36 brought but dismissed, or the person charged is acquitted of the alleged crime before final  
37 disposition of the deceased person's body.

38 (3) It is unlawful for a person owning an indirect interest with more than ten-percent  
39 ownership in a crematory or for a person owning a direct interest in a crematory to own an  
40 indirect interest with more than ten-percent ownership in a nontransplant tissue bank, as  
41 defined in section ~~12-54.5-101(5)~~ **12-140-102 (5)**, or to own a direct interest in a

1 nontransplant tissue bank. <{*The updated cross reference was changed to 102 (5) on the*  
2 *assumption that a new section 101 regarding the applicability of common provisions will*  
3 *be added to article 140.*>  
4

5 **12-135-302. [Formerly 12-54-302] Exceptions - safe harbor.** (1) If a crematory has  
6 acted in good faith, the crematory may rely on a signed statement from a person with the right  
7 of final disposition under section 15-19-106 ~~C.R.S.~~, that:

8 (a) The person knows of no document expressing the deceased person's wishes for  
9 final disposition that qualifies to direct the final disposition under section 15-19-104; ~~C.R.S.~~;

10 (b) The person has made a reasonable effort under section 15-19-106 ~~C.R.S.~~, to  
11 contact each person with the right of final disposition and to learn his or her wishes; and

12 (c) The person knows of no objections to the final disposition.

13 (2) (a) (I) A crematory may dispose of cremains at the expense of the person with the  
14 right of final disposition one hundred eighty days after cremation if the person was given  
15 clear prior notice of this ~~paragraph (a)~~ SUBSECTION (2)(a) and a reasonable opportunity to  
16 collect the cremains; the exact location of the final disposition and the costs associated with  
17 the final disposition are recorded; and the recovery of the cremains is possible. Recovery of  
18 costs is limited to a reasonable amount of the costs actually expended by the crematory.

19 (II) A crematory may comply with this ~~paragraph (a)~~ SUBSECTION (2)(a) by  
20 transferring the cremated remains and the records showing the funeral establishment and the  
21 deceased's name, date of birth, and next of kin for final disposition to a facility or place  
22 normally used for final disposition if the new custodian can comply with this ~~paragraph (a)~~  
23 SUBSECTION (2)(a).

24 (III) If cremated remains are not claimed by the person with the right of final  
25 disposition within three years after cremation, a crematory may dispose of the remains in an  
26 unrecoverable manner by placing the remains in an ossuary or by scattering the remains in  
27 a dedicated cemetery, scattering garden, or consecrated ground used exclusively for these  
28 purposes.

29 (IV) The custodian is not liable for the loss or destruction of records required to be  
30 kept by this ~~paragraph (a)~~ SUBSECTION (2)(a) if the loss or destruction was not caused by the  
31 custodian's negligence.

32 (b) If the deceased was cremated prior to July 1, 2003, and the crematory reasonably  
33 attempts to notify the person with the right of final disposition of the provisions of this  
34 subsection (2), the remains may be disposed of in accordance with this subsection (2),  
35 notwithstanding a failure to provide the notice of the provisions of this subsection (2) to the  
36 person with the right of final disposition prior to disposing of the remains.

37 (3) (a) This part 3 shall not apply to, nor interfere with, any custom or rite of a  
38 religious sect in the final disposition of its dead, and the members and followers of the  
39 religious sect may continue to provide memorial services for, care for, prepare, and cremate  
40 the bodies of deceased members of the religious sect if the human remains are refrigerated,  
41 frozen, or cremated within seven days after death.

1 (b) If human remains are refrigerated pursuant to ~~paragraph (a) of this subsection (3)~~  
 2 SUBSECTION (3)(a) OF THIS SECTION, the body must be cremated within thirty days after death  
 3 unless the coroner authorizes otherwise in writing. The coroner shall not permit an exception  
 4 to this ~~paragraph (b)~~ SUBSECTION (3)(b) unless the applicant can demonstrate a legitimate  
 5 delay caused by unforeseen, uncontrollable circumstances or by a criminal investigation.  
 6

7 **12-135-303. [Formerly 12-54-303] Registration required.** (1) Unless practicing at  
 8 a registered crematory under this section and except as provided in section ~~12-54.5-104 (3)~~  
 9 **12-140-106 (3)**, a person shall not practice as, or offer the services of, a cremationist, nor  
 10 shall the crematory sell or offer to sell funeral goods and services to the public. <{*The*  
 11 *updated cross reference was changed to 106 (3) on the assumption that a new section 101*  
 12 *regarding the applicability of common provisions will be added to article 140.*}>

13 (2) (a) Each crematory shall register with the director using forms as determined by  
 14 the director. The registration shall include the following:

- 15 (I) The specific location of the crematory;
- 16 (II) The full name and address of the designee appointed pursuant to subsection (3)  
 17 of this section;
- 18 (III) The date the crematory began doing business; and
- 19 (IV) A list of each of the following services provided at each crematory location:  
 20 (A) Refrigerating or holding human remains;
- 21 (B) Transporting human remains to or from the crematory or the place of final  
 22 disposition;
- 23 (C) Providing funeral goods or services to the public;
- 24 (D) Cremating human remains; and
- 25 (E) Selling preneed contracts.

26 (b) Each crematory registration shall be renewed, according to a schedule established  
 27 by the director, in a form as determined by the director.

28 (c) If, after initial registration, the crematory provides a service listed in ~~subparagraph~~  
 29 ~~(IV) of paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a)(IV) OF THIS SECTION that was  
 30 not included in the initial registration, the crematory shall submit an amended registration  
 31 within thirty days after beginning to provide the new service.

32 (d) If, after initial registration, the crematory appoints a new designee, the crematory  
 33 shall submit an amended registration within thirty days after appointing the designee.

34 ~~(e) The director may establish registration fees, renewal fees, and delinquency fees~~  
 35 ~~for reinstatement pursuant to section 24-34-105, C.R.S. If a crematory fails to renew the~~  
 36 ~~registration in accordance with the schedule established by the director, the registration shall~~  
 37 ~~expire SECTIONS 12-20-105 AND 12-20-202 (1) AND (2) GOVERN FEES FOR, AND RENEWAL,~~  
 38 ~~EXPIRATION, AND REINSTATEMENT OF, REGISTRATIONS UNDER THIS PART 1. <{Redundant~~  
 39 ~~with 12-20-105 and 12-20-202 (1) & (2). Recommend amending as indicated.}>~~

40 (3) Each crematory shall appoint an individual as the designee of the crematory. A  
 41 designee shall:

1 (a) Be at least eighteen years of age;  
2 (b) Have at least two years' experience working for a crematory;  
3 (c) Be employed by the registered crematory that the designee represents;  
4 (d) Have the authority within the crematory's organization to require that personnel  
5 comply with this article *135*; and

6 (e) Not be designated for more than one crematory unless the additional establishment  
7 is operated under common ownership and management and no crematory is more than sixty  
8 miles from another establishment held under the same ownership conditions.

9 (4) The designee shall require each person employed at the crematory to demonstrate  
10 evidence of compliance with section ~~12-54-304~~ *12-135-304*. The designee shall retain the  
11 records of ~~such~~ THE EVIDENCE OF COMPLIANCE so long as the person is employed at the  
12 crematory.

13 (5) This section shall not require the registration of a nonprofit organization that only  
14 provides education or support to an individual who intends to provide for final disposition  
15 of human remains.

16  
17 **12-135-304. [Formerly 12-54-304] Title protection.** A person shall not advertise,  
18 represent, or hold oneself out as or use the title of a cremationist unless the applicant has at  
19 least five hundred hours practicing or interning as a cremationist and has cremated at least  
20 fifty human remains.

21  
22 **12-135-305. [Formerly 12-54-305] Records and receipts.** (1) The crematory shall  
23 furnish to a person who delivers human remains to the crematory a receipt, which shall be  
24 signed by both the crematory's representative and the person who delivers the human  
25 remains. The crematory shall retain a copy of the receipt in its records pursuant to subsection  
26 (3) of this section. The receipt shall include the following:

- 27 (a) The date and time of the delivery;  
28 (b) The type of casket or alternative container that was delivered;  
29 (c) The name of the person who delivered the human remains;  
30 (d) The name of any business with which the person delivering the human remains  
31 is affiliated;  
32 (e) The name of the person who received the human remains on behalf of the  
33 crematory; and  
34 (f) The name of the decedent.

35 (2) Upon release of cremains, the crematory shall furnish to the person who receives  
36 the cremains a receipt, signed by both the crematory's representative and the person who  
37 receives the cremains. The crematory shall retain a copy of the receipt in its records pursuant  
38 to subsection (1) of this section. The receipt shall include the following:

- 39 (a) The date and time of the release;  
40 (b) The name of the person to whom the cremains were released;  
41 (c) The name of the person who released the cremains on behalf of the crematory; and



1 (d) The name of the decedent.

2 (3) A crematory shall maintain, for at least five years and available at the registered  
3 location, a permanent record of each cremation occurring at the facility and copies of the  
4 receipts required by this section.

5  
6 **12-135-306. [Formerly 12-54-306] Limited liability.** A crematory shall not be liable  
7 for any valuables delivered to the crematory if the crematory exercised reasonable care in  
8 handling and protecting the valuables.

9  
10 **12-135-307. [Formerly 12-54-307] Standards of practice - cremating.** (1) A  
11 crematory shall:

12 (a) Maintain a retort or crematory chamber that is operated at all times in a safe and  
13 sanitary manner;

14 (b) Employ reasonable care to minimize the risk of transmitting communicable  
15 diseases from human remains;

16 (c) Be equipped with instruments and supplies necessary to protect the health and  
17 safety of the public and employees of the crematory; and

18 (d) Transport human remains in a safe and sanitary manner.

19 (2) (a) A crematory shall not cremate human remains unless the crematory has  
20 obtained a statement containing the following from a funeral establishment, funeral director,  
21 mortuary science practitioner, or the person with the right of final disposition:

22 (I) The identity of the decedent;

23 (II) The date of death;

24 (III) Authorization to cremate the human remains;

25 (IV) The name of the person authorizing cremation and an affidavit or other  
26 document in compliance with article 19 of title 15 ~~C.R.S.~~; that the authorization complies  
27 with article 19 of title 15; ~~C.R.S.~~;

28 (V) A statement that the human remains do not contain an implanted device;

29 (VI) The name of the person authorized to receive the cremains;

30 (VII) A list of items delivered to the crematory along with the human remains;

31 (VIII) A statement as to whether the next of kin has made arrangements for a viewing  
32 or service before cremation and the date and time of any viewing or service;

33 (IX) A copy of the disposition permit; and

34 (X) A signature of a representative of any funeral establishment or the next of kin  
35 making arrangements for cremation that the representative has no actual knowledge that  
36 contradicts any information required by this ~~paragraph (a)~~ SUBSECTION (2)(a).

37 (b) A person who signs the statement required by ~~paragraph (a)~~ of this subsection (2)  
38 SUBSECTION (2)(a) OF THIS SECTION shall warrant the truthfulness of the facts contained  
39 therein. A person who signs the statement with actual knowledge to the contrary shall be  
40 civilly liable.

41 (3) (a) The crematory shall hold human remains in a cremation container and shall

1 not remove the remains.

2 (b) The crematory shall cremate the human remains in a cremation container.

3 (c) A cremation container must:

4 (I) Be composed of materials suitable for cremation;

5 (II) Be able to be closed in order to provide a complete covering for the human  
6 remains;

7 (III) Be resistant to leaking or spilling;

8 (IV) Be rigid enough to handle with ease;

9 (V) Provide reasonable protection for the health and safety of crematory employees;

10 and

11 (VI) Be used exclusively for the cremation of human remains.

12 (4) A crematory shall not cremate the human remains of more than one person within  
13 the same cremation chamber or otherwise commingle the cremains of multiple human  
14 remains unless the next of kin has signed a written authorization. No crematory is civilly  
15 liable for commingling the cremains of human remains if the next of kin has signed the  
16 written authorization.

17 (5) (a) A crematory shall use a tag to identify human remains and cremains. The tag  
18 must be verified, removed, and placed near the cremation chamber control panel prior to  
19 cremation. The tag must remain next to the cremation chamber until the cremation is  
20 complete.

21 (b) After cremation is complete, all of the cremains and reasonable recoverable  
22 residue shall be removed from the cremation chamber and processed as necessary. Anything  
23 other than the cremains shall be disposed of unless the next of kin authorizes otherwise.

24 (c) The processed cremains shall be placed in a temporary container or urn. Any  
25 cremains that do not fit within ~~such~~ THE enclosure shall be placed in a separate temporary  
26 container or urn. Each container shall be marked with the decedent's identity and the name  
27 of the crematory. If a temporary container is used, the crematory shall disclose that the  
28 temporary container should not be used for permanent storage.

29 (d) If cremated remains are shipped, the crematory shall use a method that employs  
30 an internal tracking system and obtains a signed receipt from the person accepting delivery.

31 (6) Cremains shall not be commingled with other cremains in final disposition or  
32 scattering without written authorization from the next of kin unless the disposition or  
33 scattering occurs within a dedicated cemetery or consecrated grounds used exclusively for  
34 ~~such~~ THOSE purposes.

35 (7) (a) A crematory shall not cremate human remains containing an implanted device.  
36 If the funeral establishment that had control of the human remains failed to ensure that a  
37 device was removed, the funeral establishment is responsible for removing the device.

38 (b) If the person authorizing cremation fails to inform the crematory of the presence  
39 of an implanted device, the person shall be solely liable for any resulting damage to the  
40 crematory.

1 **12-135-308. [Formerly 12-54-308] Custody and responsibility - rules.** (1) A  
2 crematory shall not, through its managers, employees, contractors, or agents, take custody  
3 of human remains without an attestation of positive identification on a form promulgated by  
4 the director by rule by:

- 5 (a) The next of kin;
- 6 (b) The county coroner or the county coroner's designee; or
- 7 (c) An authorized person at the care facility where the deceased died.

8 (2) A crematory is responsible for identifying and tracking human remains from the  
9 time it takes custody of human remains until the:

10 (a) Final disposition has occurred or the remains are returned to the person who has  
11 the right of final disposition;

12 (b) Human remains are released in accordance with the instructions given by the  
13 person who has the right of final disposition; or

14 (c) Remains are released to a funeral establishment, another crematory, repository,  
15 or entity as authorized by the person who has the right of final disposition.

16 (3) The director shall adopt rules implementing this section that:

17 (a) Establish what constitutes custody;

18 (b) Define "care facility", "repository", and "entity";

19 (c) Establish who is authorized to identify human remains at a care facility for a  
20 funeral establishment; and

21 (d) Prescribe the minimum standards for the positive identification and chain of  
22 custody of human remains. A crematory may use the crematory's own procedures if the  
23 procedures meet or exceed the minimum standards of the rule promulgated by the director.

24  
25 PART 4  
26 ADMINISTRATION  
27

28 **12-135-401. [Formerly 12-54-401] Powers and duties of the director - rules.**  
29 (1) The director may ~~deny, suspend, refuse to renew, issue a letter of admonition or~~  
30 ~~confidential letter of concern to, revoke, place on probation, TAKE DISCIPLINARY OR OTHER~~  
31 ~~ACTION AS AUTHORIZED IN SECTION 12-20-404~~ or limit the scope of practice of the  
32 registration of a funeral establishment or crematory under this article **135** that has:  
33 <{*Redundant with disciplinary authority common provision, 12-20-404. Recommend*  
34 ~~*amending subsection as indicated.*~~>

35 (a) Filed an application with the director containing material misstatements of fact  
36 or has omitted any disclosure required by this article **135**;

37 (b) Had a registration issued by Colorado, or an equivalent license, registration, or  
38 certification issued by another state, to practice mortuary science or to embalm or cremate  
39 human remains revoked; or

40 (c) Violated this article **135** or any rule of the director adopted under this article **135**.

41 (2) (a) The director may deny or revoke a registration if the funeral establishment,

1 crematory, or the designee thereof has been convicted of a felony related to another activity  
2 regulated under this article **135** or a felony of moral turpitude. The director shall promptly  
3 notify the funeral establishment or crematory of ~~such~~ THE revocation.

4 (b) A crematory or funeral establishment whose registration has been revoked shall  
5 not be eligible for a registration for two years after the effective date of the revocation IS  
6 SUBJECT TO THE WAITING PERIOD SPECIFIED IN SECTION 12-20-404 (3).

7 (3) The director may investigate the activities of a funeral establishment or crematory  
8 upon his or her own initiative or upon receipt of a complaint or a suspected or alleged  
9 violation of this article **135**. SECTION 12-20-403 APPLIES TO INVESTIGATIONS, HEARINGS, AND  
10 OTHER PROCEEDINGS UNDER THIS SECTION. <{***Recommend adding reference to disciplinary  
11 procedures common provision and repealing subsections (4) & (5), below, as redundant  
12 with the disciplinary procedures common provision?***}>

13 (4) The director or an administrative law judge appointed pursuant to part 10 of  
14 article 30 of title 24 C.R.S., shall conduct disciplinary hearings concerning a registration  
15 issued under this article. Such hearings shall conform to article 4 of title 24, C.R.S.

16 (5) (a) The director or an administrative law judge may administer oaths, take  
17 affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the  
18 production of all relevant papers, books, records, documentary evidence, and materials in any  
19 hearing or investigation conducted by the director or an administrative law judge.

20 (b) Upon failure of a witness to comply with a subpoena or service of process, the  
21 district court of the county in which the subpoenaed witness resides or conducts business may  
22 issue an order requiring the witness to appear before the director or administrative law judge  
23 and produce the relevant papers, books, records, documentary evidence, testimony, or  
24 materials in question. Failure to obey the order of the court may be punished as a contempt  
25 of court. The director or an administrative law judge may apply for such order.

26 (6) (4) The director shall keep records of registrations and disciplinary proceedings.  
27 The records kept by the director shall be open to public inspection in a reasonable time and  
28 manner determined by the director.

29 (7) (5) When the director or administrative law judge deems it appropriate and useful,  
30 the director or administrative law judge may consult with or obtain a written opinion from  
31 an appropriate professional organization or association of businesses who offer services  
32 requiring registration under this article **135** for the purpose of investigating possible  
33 violations or weighing the appropriate standard of care to be applied to specific events or the  
34 facts in a hearing being held under this article **135**.

35 (8) (6) (a) The director may promulgate reasonable rules necessary to implement this  
36 section, sections 12-54-110, 12-54-111, 12-54-303, and 12-54-304, and this part 4. <{***Since  
37 this rule-making provision is unique from, and narrower than, the general rule-making  
38 common provision, 12-20-204, this rule-making is specifically excepted from the common  
39 provision.***}>

40 (b) Before promulgating rules, the director shall seek input and advice from a person,  
41 or any state professional organization of persons, offering services that require registration

1 pursuant to this article *135*.

2 (c) Before promulgating rules, the director may seek input and advice from a  
3 consumer representative who advocates for consumers affected by this article *135*.

4  
5 **12-135-402. [Formerly 12-54-402] Fees.** (1) The director shall establish and collect  
6 the fees for a registration issued under this article *135* pursuant to section 24-34-105, C.R.S.  
7 *12-20-105*.

8 (2) All fees collected by the director shall be transmitted to the state treasurer, who  
9 shall credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall  
10 make annual appropriations for expenditures of the director required to perform his or her  
11 duties under this article, which expenditures shall be made from such appropriations upon  
12 vouchers and warrants drawn pursuant to law. The division shall employ, subject to section  
13 13 of article XII of the state constitution, such clerical or other assistants as are necessary for  
14 the proper performance of its work. <{*Redundant with common provisions on depositing*  
15 *fees in DPO cash fund, 12-20-105 (3), and employment of staff, 12-20-103 (4).*}>

16  
17 **12-54-403. Immunity.** The director, any member of the director's staff, any person  
18 acting as a witness or consultant to the director, any witness testifying in a proceeding  
19 authorized under this article, and any person who lodges a complaint pursuant to this article  
20 shall be immune from liability in any civil action for acts occurring while acting within the  
21 scope of the person's capacity as director, staff, consultant, witness, or complainant  
22 respectively, if the person was acting in good faith, made a reasonable effort to obtain the  
23 facts of the matter as to which the person acted, and acted in the reasonable belief that the  
24 action taken was warranted by the facts. A person participating in good faith in lodging a  
25 complaint or participating in any investigative or administrative proceeding pursuant to this  
26 article shall be immune from any civil liability that may result from such participation.  
27 <{*Redundant with immunity common provision, 12-20-402. Recommend repealing.*}>

28  
29 **12-54-404. Letters of concern.** The director may issue and send a confidential letter  
30 of concern to the funeral establishment or crematory when a complaint or investigation  
31 discloses an instance of conduct that does not warrant formal action by the director and, in  
32 the opinion of the director, the complaint should be dismissed, but the director has noticed  
33 indications of possible errant conduct by the funeral establishment or crematory that could  
34 lead to serious consequences if not corrected. <{*Redundant with confidential letters of*  
35 *concern common provision, 12-20-404 (5). Recommend repealing.*}>

36  
37 **12-54-405. Letters of admonition - funeral homes and crematories.** (1) When a  
38 complaint or investigation discloses an instance of misconduct that, in the opinion of the  
39 director, does not warrant formal action by the director but that should not be dismissed as  
40 being without merit, a letter of admonition may be issued and sent to a person by certified  
41 mail.

1 (2) When a letter of admonition is sent by the director, the subject shall be advised  
2 of the right to request that formal disciplinary proceedings be initiated to adjudicate the  
3 propriety of the conduct upon which the letter of admonition is based. The subject shall make  
4 the request in writing within twenty days after receipt of the letter.

5 (3) If the request for adjudication is timely made, the letter of admonition shall be  
6 deemed vacated and the matter shall be processed by means of formal disciplinary  
7 proceedings. <{*Redundant with letters of admonition common provision, 12-20-404 (4).*  
8 *Recommend repealing.*}>

9  
10 **12-135-403. [Formerly 12-54-406] Cease-and-desist orders - procedure.** (1)(a) If  
11 it appears to the director, based upon credible evidence as presented in a written complaint,  
12 that a person is acting in a manner that creates an imminent threat to the health and safety of  
13 the public, or a person is acting or has acted without the required registration, the director  
14 may issue an order to cease and desist such activity. The order shall set forth the statutes and  
15 rules alleged to have been violated, the facts alleged to have constituted the violation, and  
16 the requirement that all unlawful acts or unauthorized practices immediately cease.

17 (b) Within ten days after service of the order to cease and desist pursuant to paragraph  
18 (a) of this subsection (1), the respondent may request a hearing on the question of whether  
19 the alleged acts or practices have occurred. Such hearing shall be conducted pursuant to  
20 sections 24-4-104 and 24-4-105, C.R.S.

21 (2) (a) If it appears to the director, based upon credible evidence as presented in a  
22 written complaint, that a person has violated this article or rules promulgated under this  
23 article, then, in addition to any specific powers granted pursuant to this article, the director  
24 may issue to such person an order to show cause as to why the director should not issue a  
25 final order directing such person to cease and desist from such violations.

26 (b) A person against whom an order to show cause has been issued pursuant to  
27 paragraph (a) of this subsection (2) shall be promptly notified by the director of the issuance  
28 of the order, along with a copy of the order, the factual and legal basis for the order, and the  
29 date set by the director for a hearing on the order. Such notice may be served by personal  
30 service, by first-class United States mail, postage prepaid, or as may be practicable upon any  
31 person against whom such order is issued. Personal service or mailing of an order or  
32 document pursuant to this subsection (2) shall constitute notice thereof to the person.

33 (c) (I) The hearing on an order to show cause shall be commenced no sooner than ten  
34 and no later than forty-five calendar days after the date of transmission or service of the  
35 notification by the director as provided in paragraph (b) of this subsection (2). The hearing  
36 may be continued by agreement of all parties based upon the complexity of the matter,  
37 number of parties to the matter, and legal issues presented in the matter, but in no event shall  
38 the hearing commence later than sixty calendar days after the date of transmission or service  
39 of the notification.

40 (H) If a person against whom an order to show cause has been issued pursuant to  
41 paragraph (a) of this subsection (2) does not appear at the hearing, the director may present

1 evidence that notification was properly sent or served upon such person pursuant to  
2 paragraph (b) of this subsection (2) and such other evidence related to the matter as the  
3 director deems appropriate. The director shall issue the order within ten days after the  
4 director's determination related to reasonable attempts to notify the respondent, and the order  
5 shall become final as to that person by operation of law. Such hearing shall be conducted  
6 pursuant to sections 24-4-104 and 24-4-105, C.R.S.

7 (III) If the director reasonably finds that the person against whom the order to show  
8 cause was issued is acting or has acted without the required registration or has engaged in  
9 acts or practices constituting violations of this article or rules promulgated under this article,  
10 a final cease-and-desist order may be issued, directing such person to cease and desist from  
11 further violations.

12 (IV) The director shall provide notice, in the manner set forth in paragraph (b) of this  
13 subsection (2), of the final cease-and-desist order within ten calendar days after the hearing  
14 conducted pursuant to this paragraph (c) to each person against whom the final order has  
15 been issued. The final order shall be effective when issued and shall be a final order for  
16 purposes of judicial review.

17 (3) If it appears to the director, based upon credible evidence presented to the  
18 director, that a person has engaged in an act or practice constituting a violation of this article,  
19 a rule promulgated pursuant to this article, an order issued pursuant to this article, or an act  
20 or practice constituting grounds for administrative sanction pursuant to this article, the  
21 director may enter into a stipulation with the person.

22 (4) If a person fails to comply with a final cease-and-desist order or a stipulation, the  
23 director may request the attorney general or the district attorney for the judicial district in  
24 which the alleged violation exists to bring, and if so requested such attorney shall bring, suit  
25 for a temporary restraining order and for injunctive relief to prevent any further or continued  
26 violation of the final order.

27 (5) A person aggrieved by the final cease-and-desist order may seek judicial review  
28 of the director's determination or of the director's final order.

29 THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES AND IN  
30 ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405. <{Redundant with  
31 cease-and-desist orders common provision, 12-20-405. Recommend repealing and adding  
32 cross-reference to common provision, as indicated.}>  
33

34 **12-135-404. [Formerly 12-54-407] Civil penalty - fines.** (1) On motion of the  
35 director, the court may impose a civil penalty of not more than one thousand dollars for a  
36 violation of this article 135 or a rule promulgated under this article 135. The penalty shall be  
37 transmitted to the state treasurer and credited to the general fund. <{Because the penalty in  
38 the first sentence is imposed by a court, it is not an administrative fine. The second  
39 sentence is redundant with disposition of fines common provision, 12-20-404 (6).  
40 Recommend striking.}>

41 (2) In addition to any other penalty that may be imposed pursuant to this section, a

1 funeral establishment or crematory violating this article **135** or a rule promulgated pursuant  
2 to this article **135** may be fined no less than one hundred dollars and no more than five  
3 thousand dollars for each violation proven by the director. **All fines collected pursuant to this**  
4 **subsection (2) shall be transferred to the state treasurer, who shall credit such moneys to the**  
5 **general fund.** <{*The second sentence is redundant with disposition of fines common*  
6 *provision, 12-20-404 (6). Recommend striking.*}>

7  
8 **12-135-405. [Formerly 12-54-408] Enforcement - injunctions.** (1) The director may  
9 forward to a district attorney or a state or federal law enforcement agency any information  
10 concerning possible violations of statute or rule under this article **135** committed by any  
11 person or complaints filed against a funeral director, mortuary science practitioner,  
12 cremationist, or embalmer.

13 (2) The director may **request that an action be brought in the name of the people of**  
14 **the state of Colorado by the attorney general or the district attorney of the district in which**  
15 **the violation is alleged to have occurred to enjoin a person from engaging in or continuing**  
16 **the violation or from doing any act that furthers the violation. In such an action, an order or**  
17 **judgment may be entered awarding such preliminary or final injunction as is deemed proper**  
18 **by the court** SEEK INJUNCTIVE RELIEF IN ACCORDANCE WITH SECTION 12-20-406. The notice,  
19 hearing, or duration of an injunction or restraining order shall be made in accordance with  
20 the Colorado rules of civil procedure. <{*Some redundancy with injunctive relief common*  
21 *provision, 12-20-406. Recommend amending as indicated.*}>

22  
23 **12-54-409. Deferment prohibited.** When a complaint or an investigation discloses  
24 misconduct that, in the opinion of the director, warrants formal action, the complaint shall  
25 not be resolved by a deferred settlement, action, judgment, or prosecution. <{*Redundant*  
26 *with disciplinary action/no deferral common provision, 12-20-404(2). Recommend*  
27 *repealing.*}>

28  
29 **12-135-406. [Formerly 12-54-410] Repeal.** Sections ~~12-54-110, 12-54-111,~~  
30 ~~12-54-303, and 12-54-304~~ 12-135-110, 12-135-111, 12-135-303, AND 12-135-304 and this  
31 part 4 are repealed, effective July 1, 2024. **Prior to such BEFORE ITS** repeal, the regulation of  
32 persons registered to practice cremation and mortuary science ~~shall be reviewed pursuant to~~  
33 ~~IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH~~ section 24-34-104. C.R.S. <{*Section is*  
34 *updated to conform with current sunset language.*}>



**Mortuaries & Crematories, Title 12, Article 54**

<b>Current Statute Number</b>		<b>Proposed Statute Number</b>	
<b>12-54-101. Short title</b>		<b>12-135-101. Short title</b>	
<i>No current provision</i>		<b>12-135-102. Applicability of common provisions</b> ( <i>new provision</i> )	
<b>12-54-102. Definitions</b>		<b>12-135-103. Definitions</b>	
	(1)		(1)
	(2)		(2)
	(3)		(3)
	(4)		(4)
	(4.3)		(5)
	(4.5)		(6)
	(4.7)		(7)
	(5)		(8)
	(5.3)		(9)
	(5.5)		(10)
	(5.7)	<i>Recommend repealing as redundant with definitions common provision, 12-20-102 (6)</i>	----
	(6)	<i>Recommend repealing as redundant with definitions common provision, 12-20-102 (7)</i>	----
	(7)		(11)
	(8)		(12)
	(9)		(13)
	(10)		(14)

**Mortuaries & Crematories, Title 12, Article 54**

<b>Current Statute Number</b>		<b>Proposed Statute Number</b>	
	(11)		(15)
	(12)		(16)
	(13)		(17)
	(14)		(18)
	(14.2)		(19)
	(14.5)		(20)
	(15)		(21)
	(16)		(22)
	(17)		(23)
	(17.5)		(24)
	(18)		(25)
	(19)		(26)
	(20)		(27)
<b>12-54-103. Funeral establishment</b>		<b>12-135-104. Funeral establishment</b>	
	(1)		(1)
	(2)		(2)
<b>12-54-104. Unlawful acts</b>		<b>12-135-105. Unlawful acts</b>	
	(1)(a) – (1)(p)		(1)(a) – (1)(p)
	(2)		(2)
<b>12-54-105. Care of bodies required</b>		<b>12-135-106. Care of bodies required</b>	
<b>12-54-106. Consumer protection</b>		<b>12-135-107. Consumer protection</b>	
	(1)		(1)
	(2)		(2)

**Mortuaries & Crematories, Title 12, Article 54**

<b>Current Statute Number</b>		<b>Proposed Statute Number</b>	
	(3)		(3)
	(4)		(4)
<b>12-54-107. Violations and penalties</b>		<b>12-135-108. Violations and penalties</b> <i>Distinct from common provision so amendment / repeal not recommended</i>	
<b>12-54-108. Exceptions</b>		<b>12-135-109. Exceptions</b>	
	(1)		(1)
	(2)		(2)
	(3)		(3)
	(4)		(4)
	(5)		(5)
<b>12-54-109. Repealed</b>		-----	
<b>12-54-110. Registration required</b>		<b>12-135-110. Registration required</b>	
	(1)		(1)
	(2)(a)		(2)(a)
	(2)(b)		(2)(b)
	(2)(c)		(2)(c)
	(2)(d)		(2)(d)
	(2)(e)	<i>Recommend amending to refer to fees and renewals/reinstatements common provisions, 12-20-105 &amp; 12-20-202</i>	(2)(e)
	(3)		(3)
	(4)		(4)

**Mortuaries & Crematories, Title 12, Article 54**

<b>Current Statute Number</b>		<b>Proposed Statute Number</b>	
	(5)		(5)
<b>12-54-111. Title protection</b>		<b>12-135-111. Title protection</b>	
	(1)		(1)
	(2)		(2)
	(3)		(3)
	(4)		(4)
<b>12-54-112. Standards of practice</b>		<b>12-135-112. Standards of practice</b>	
	(1)		(1)
	(2)		(2)
	(3)		(3)
<b>12-54-113. Custody and responsibility</b>		<b>12-135-113. Custody and responsibility</b>	
	(1)		(1)
	(2)		(2)
	(3)		(3)
<b>12-54-201. Mortuaries in cemeteries not exempt</b>		<b>12-135-201. Mortuaries in cemeteries not exempt</b>	
<b>12-54-301. Unlawful acts</b>		<b>12-135-301. Unlawful acts</b>	
	(1)(a) – (1)(l)		(1)(a) – (1)(l)
	(2)		(2)
	(3)		(3)
<b>12-54-302. Exceptions</b>		<b>12-135-302. Exceptions</b>	
	(1)(a) – (1)(c)		(1)(a) – (1)(c)
	(2)(a) – (2)(b)		(2)(a) – (2)(b)
	(3)(a) – (3)(b)		(3)(a) – (3)(b)

**Mortuaries & Crematories, Title 12, Article 54**

<b>Current Statute Number</b>		<b>Proposed Statute Number</b>	
<b>12-54-303. Registration required</b>		<b>12-135-303. Registration required</b>	
	(1)		(1)
	(2)(a)		(2)(a)
	(2)(b)		(2)(b)
	(2)(c)		(2)(c)
	(2)(d)		(2)(d)
	(2)(e)	<i>Recommend amending to refer to fees and renewals/reinstatements common provisions, 12-20-105 &amp; 12-20-202</i>	(2)(e)
	(3)(a) – (3)(e)		(3)(a) – (3)(e)
	(4)		(4)
	(5)		(5)
<b>12-54-304. Title protection</b>		<b>12-135-304. Title protection</b>	
<b>12-54-305. Records and receipts</b>		<b>12-135-305. Records and receipts</b>	
	(1)(a) – (1)(f)		(1)(a) – (1)(f)
	(2)(a) – (2)(d)		(2)(a) – (2)(d)
	(3)		(3)
<b>12-54-306. Limited liability</b>		<b>12-135-306. Limited liability</b>	
<b>12-54-307. Standards of practice</b>		<b>12-54-307. Standards of practice</b>	
	(1)(a) – (1)(d)		(1)(a) – (1)(d)
	(2)(a) – (2)(b)		(2)(a) – (2)(b)
	(3)(a) - (3)(c)		(3)(a) - (3)(c)
	(4)		(4)

**Mortuaries & Crematories, Title 12, Article 54**

<b>Current Statute Number</b>		<b>Proposed Statute Number</b>	
	(5)(a) – (5)(d)		(5)(a) – (5)(d)
	(6)		(6)
	(7)(a) – (7)(b)		(7)(a) – (7)(b)
<b>12-54-308. Custody and responsibility</b>		<b>12-135-308. Custody and responsibility</b>	
	(1)(a) – (1)(c)		(1)(a) – (1)(c)
	(2)(a) – (2)(c)		(2)(a) – (2)(c)
	(3)(a) – (3)(d)		(3)(a) – (3)(d)
<b>12-54-401. Powers and duties</b>		<b>12-135-401. Powers and duties</b>	
	(1) IP	<i>Recommend amending to add reference to disciplinary actions common provision, 12-20-404</i>	(1) IP
	(1)(a) – (1)(c)		(1)(a) – (1)(c)
	(2)(a)		(2)(a)
	(2)(b)	<i>Recommend amending to add reference to waiting period common provision, 12-20-404 (3)</i>	(2)(b)
	(3)	<i>Recommend amending to add reference to disciplinary procedures common provision, 12-20-403</i>	(3)
	(4)	<i>Recommend repealing as redundant with disciplinary procedures</i>	-----

**Mortuaries & Crematories, Title 12, Article 54**

<b>Current Statute Number</b>		<b>Proposed Statute Number</b>	
		<i>common provision, 12-20-403</i>	
	(5)	<i>Recommend repealing as redundant with disciplinary procedures common provision, 12-20-403</i>	-----
	(6)		(4)
	(7)		(5)
	(8)(a) – (8)(c)	<i>Narrow rulemaking provision – no changes recommended</i>	(6)(a) – (6)(c)
<b>12-54-402. Fees</b>		<b>12-135-402. Fees</b>	
	(1)	<i>Recommend striking subsection number and adding reference to fee setting common provision, 12-20-105</i>	-----
	(2)	<i>Recommend repealing as redundant with common provisions on depositing fees on DPO cash fund, 12-20-105 (3), and employment of staff, 12-20-103 (4)</i>	-----
<b>12-54-403. Immunity</b>		<i>Recommend repealing as redundant with immunity common provision, 12-20-402</i>	
<b>12-54-404. Letters of concern</b>		<i>Recommend repealing as redundant with confidential letter of concern common provision, 12-20-404 (5)</i>	

**Mortuaries & Crematories, Title 12, Article 54**

<b>Current Statute Number</b>		<b>Proposed Statute Number</b>	
<b>12-54-405. Letters of admonition</b>		<i>Recommend repealing as redundant with letters of admonition common provision, 12-20-404 (4)</i>	
<b>12-54-406. Cease-and-desist orders</b>		<b>12-135-403. Cease-and-desist orders</b>	
	(1) – (5)	<i>Recommend repealing all subsections and replacing with new language referencing cease-and-desist orders common provision, 12-20-405</i>	No subsection numbers
<b>12-54-407. Civil penalty - fines</b>		<b>12-135-404. Civil penalty - fines</b>	
	(1)	<i>Recommend amending to strike language about disposition of fines as redundant with 12-20-404 (6)</i>	(1)
	(2)	<i>Recommend amending to strike language about disposition of fines as redundant with 12-20-404 (6)</i>	(2)
<b>12-54-408. Enforcement - injunctions</b>		<b>12-135-405. Enforcement - injunctions</b>	
	(1)		(1)
	(2)	<i>Recommend amending to strike redundant language and replace with reference to injunctive relief common provision, 12-20-406</i>	(2)



**Mortuaries & Crematories, Title 12, Article 54**

<b>Current Statute Number</b>	<b>Proposed Statute Number</b>
<b>12-54-409. Deferment prohibited</b>	<i>Recommend repealing as redundant with no deferments common provision, 12-20-404 (2)</i>
<b>12-54-410. Repeal</b>	<b>12-135-406. Repeal</b>

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