

The Commonwealth of Massachusetts  
Division of Occupational Licensure  
1 Federal Street, Boston, MA 02110  
Board of Embalming & Funeral Directing  
www.mass.gov/funeraldirecting  
617-701-8628

### **Establishment Certificate Application--Fee \$40.00**

TO: Establishment Certificate Applicants  
FROM: Board of Embalming & Funeral Directing  
RE: **Change of Ownership for Funeral Establishments/New Establishments**

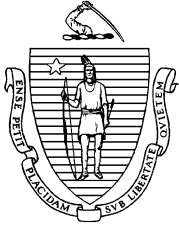
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This application is to be used for new funeral establishments and for when an existing funeral establishment is changing ownership. Per 239 CMR 4.04, changes of ownership occur when funeral director owners who last obtained an establishment certificate for a funeral establishment (“original owners”) sell or transfer their interest in that establishment (or a business entity owning an establishment, such as a corporation) such that they now have an ownership stake of less than 50%. This application should not be used for name changes only (use the application entitled “duplicate establishment certificate application”). Please be advised that in order for the Board to review this application, the original application must be sent to the Board office and you must mail copies of this application to each Board Member (list enclosed). Completed Applications will not be approved until **4 to 6 weeks for processing after ALL required material have been received by the Board office.**

**Once your application is COMPLETE, you will be contacted by a Board inspector for an inspection for compliance with the Board’s regulations (other than accessibility). Your application cannot be approved by the Board prior to these steps being complete.**

**INCOMPLETE APPLICATIONS MAY BE RETURNED UNPROCESSED**

**Fees will be collected the day you come before the Board**



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**Establishment Certificate Application--Fee \$40.00**

Name of New Establishment: \_\_\_\_\_  
(name presented to the public/DBA Name)

Street Address: \_\_\_\_\_

Business Entity operating Establishment: \_\_\_\_\_  
(name of partnership, corporation, LLC, LLP, or n/a)

Telephone Number of Establishment: \_\_\_\_\_

Federal ID or Social Security Number to be used with Establishment<sup>1</sup>: \_\_\_\_\_

Name of a Primary Registered Funeral Director who will be an original owner and agrees to be the Applicant for purposes of this application and will represent the interest of all owners in this application. In submitting this application, the Applicant must certify that any additional owners consent to this requirement:

Name: \_\_\_\_\_ Registration Number: \_\_\_\_\_

Contact Information for Applicant (if different from above):

\_\_\_\_\_  
\_\_\_\_\_

Additional Registered Funeral Directors owning Funeral Establishment (or Business Entity) who will be deemed “original owners” of establishment. Attach additional pages and check this box if additional space is needed:

Name: \_\_\_\_\_ Registration Number: \_\_\_\_\_

Name: \_\_\_\_\_ Registration Number: \_\_\_\_\_

Note: Funeral Directors named above who do not have a valid Type 3 registration at the time of application must submit a completed application to obtain a Type 3 registration prior to this application being processed.

<sup>1</sup> Pursuant to G.L. c. 62C, s. 47A, the Division of Professional Licensure is required to obtain your social security number and forward it to the Department of Revenue. The Department of Revenue will use your social security number to ascertain whether you are in compliance with the tax laws of the Commonwealth.

**PART A – PREVIOUS ESTABLISHMENT INFORMATION**

If this application is for a change of ownership for a previous establishment, please answer the following questions:

If this application is for a new establishment that is not replacing an existing establishment, check the following box and move on to Part B:

1. Provide the name of the previous establishment: \_\_\_\_\_

2. Provide the name of the Business Entity operating previous establishment:  
\_\_\_\_\_  
(partnership, corporation, LLC, LLP, or n/a)

3. Provide the name(s) of the Type 3 Funeral Directors operating the previous establishment:  
\_\_\_\_\_

4. Does this transaction involve a transfer of real estate or any other business assets or tangible or intangible personal property (includes business assets, right to use facility name, etc.)? Circle one of the following:

Yes – If yes, provide a copy of the purchase and sale agreement or bill of sale AND deed. If the sale is contingent on Board approval, the deed MUST be sent to the Board office within ten days of the Board approving this application (typically the day of a Board meeting).

No – If no, explain: \_\_\_\_\_  
\_\_\_\_\_

5. Will the new establishment honor pre-need arrangements of the old establishment? Circle one of the following:

Yes – If yes, please attach a draft copy of a letter notifying pre-need customers of the change pursuant to 239 CMR 4.03(2). If this application is approved, this letter must be sent within ten days of the Board approving this application (typically the day of a Board meeting).

No – If no, explain: \_\_\_\_\_  
\_\_\_\_\_

**PART B – BUSINESS ENTITY INFORMATION**

If a Business Entity is to own/operate this establishment, please provide the following information.

If this application is for a establishment that is being owned and operated by a single registered funeral director operating as a solo practitioner without utilizing any business entity, submit a copy of the business certificate issued by the city or town pursuant to M.G.L. c. 110, §5, check the following box, and move on to Part C:

Note: Per Massachusetts law and Board regulations, one or more type 3 funeral directors must have a controlling interest in a business entity owning a funeral establishment.

What type of business entity will operate this establishment? (skip to the relevant entity)

**1. General Partnership, Limited Partnership, and Limited Liability Partnership (LLP)**

A. Name of Partnership \_\_\_\_\_

B. The following information must be provided for every partner. If more room is needed, attach additional pages and check this box:

NAME OF PARTNER	REGISTRATION NUMBER (CHECK N/A IF NOT APPLICABLE)	GENERAL OR LIMITED PARTNER?	PERCENTAGE OF OWNERSHIP IN PARTNERSHIP (TOTAL MUST BE NO MORE THAN 100%)

C. Partners that are business entities (if applicable)

If any partner to the partnership is a business entity itself, such as a corporation, LLC, LLP, etc., please list all other funeral establishments in Massachusetts in which that business entity holds an ownership interest (write none if applicable):

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- D. Required Attachments – Please provide with this application a copy of the following:
1. A copy of the partnership agreement
  2. For LLP’s only, a copy of registration filed with the Massachusetts Secretary of State

**2. Corporation**

- A. Name of Corporation: \_\_\_\_\_
- B. Number of Authorized Stocks: \_\_\_\_\_
- C. Number of Issued Stocks: \_\_\_\_\_
- D. Shareholders holding at least 5% of authorized Stock. If more room is needed, attach additional pages and check this box:

NOTE: Type 3’s must hold a majority of *authorized* stock. If both common stock and preferred stock are issued, please list both types

NAME OF SHAREHOLDER	REGISTRATION NUMBER (CHECK N/A IF NOT APPLICABLE)	NUMBER OF STOCKS OWNED

- E. Common and Preferred Stock. Does this corporation issue both common and preferred stock? If one type of stock is NOT held by a majority of registered funeral directors, please explain below the differences between the two types of stocks (leave blank if non-applicable):

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- F. Shareholders that are business entities (if applicable)

If any shareholder of the corporation is a business entity itself, such as a corporation, LLC, LLP, etc., please list all other funeral establishments in Massachusetts in which that business entity holds an ownership interest and the names of the owners of that entity (write none if applicable):

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- G. Required Attachments – Please provide with this application a copy of the following:

1. A copy of the corporation's articles of incorporation
2. A copy of the corporation's bylaws
3. If applicable, a copy of any articles of amendment changing the authorized stock issued by the corporation
4. If applicable, a copy of any minutes of shareholders' meeting(s) at which the transaction was authorized

### **3. Limited Liability Company (LLC)**

A. Name of LLC: \_\_\_\_\_

B. Type of LLC

Circle one:    Member Managed                      Manager Managed

C. Members and Managers of LLC

The following information must be provided for every member and manager. If more room is needed, attach additional pages and check this box:

NAME OF MEMBER OR MANAGER	REGISTRATION NUMBER (CHECK N/A IF NOT APPLICABLE)	MEMBER OR MANAGER?	PERCENTAGE OF OWNERSHIP IN LLC (TOTAL MUST BE NO MORE THAN 100%)

D. Members/managers that are business entities (if applicable)

If any member or manager of the LLC is a business entity itself, such as a corporation, LLC, LLP, etc., please list all other funeral establishments in Massachusetts in which that business entity holds an ownership interest (write none if applicable):

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E. Required Attachments – Please provide with this application a copy of the following:

1. A copy of the operating agreement by which the LLC was formed;
2. A copy of the by-laws which govern the operation of the LLC

**PART C – MISCELLANEOUS REQUIREMENTS**

1. Insurance – Attach evidence of general and professional liability insurance per 239 CMR 3.17.
2. Anticipated Employees

Please list the names and registration numbers of individuals you anticipate employing at this establishment. If more room is needed, attach additional pages and check this box:

NAME OF REGISTRANT	REGISTRATION #	WAS THIS INDIVIDUAL A FORMER OWNER?

For former owners, attach any written employment agreements (salary and benefit information is not necessary and may be redacted).

3. Accessibility

239 CMR 3.06 requires every licensed funeral establishment to be accessible to individuals with disabilities to the extent required by the current provisions of 521 CMR, with the caveat that any grandfathering in 521 CMR is inapplicable. To meet this requirement, the applicant must provide one of the following:

- A. Submit the attached certification from a building inspector (for the city or town where the establishment is located), a licensed architect (with stamp), or licensed professional engineer (with stamp) that the funeral home complies with the current provisions of 521 CMR. **The certification of compliance in this application must be utilized for this purpose, occupancy permits or other certifications will NOT be accepted;** or
- B. In the event the funeral establishment does not meet the current provisions of 521 CMR, the applicant must submit the following, which constitutes a request for an extension:
  1. A list of those areas in the funeral establishment that do not meet the current provisions of 521 CMR;
  2. A statement, signed by a contractor, containing a proposed timeframe by which time the above referenced deficiencies can be corrected; and
  3. A statement by the applicant agreeing that he/she is willing to enter into a conditional licensure agreement by which the Board may issue a funeral establishment certificate subject to the above referenced deficiencies being corrected within a Board approved timeframe.



CERTIFICATION OF COMPLIANCE

239 CMR 3.06(1) (a) requires every licensed funeral establishment to be accessible to individuals with disabilities to the extent required by 521 CMR. However, per 239 CMR 3.06(3), establishments needing a new establishment certificate do not qualify for any grandfathering under 521 CMR, such as those found in 521 CMR 3.00. To meet this requirement, the applicant must provide a certification from a building inspector (acting on behalf of the city or town where the establishment is located), a licensed architect (with stamp), or licensed professional engineer (with stamp) that the funeral home complies with the current provisions of 521 CMR. This requirement CANNOT be met with a building or occupancy permit or certification that the establishment will comply after construction is completed, all work must be complete on the date this form is signed.

I certify that the facility located at \_\_\_\_\_  
has been inspected to determine whether it meets the latest accessibility provisions of 521 CMR. I understand that this certification overrides any exemptions that the facility would have been eligible for due to a lack of new construction. Therefore, based on this inspection, I further certify that the above referenced facility currently, as of the date of this form, fully adheres to the latest accessibility requirements of 521 CMR.

Signature: \_\_\_\_\_  
*Licensed Engineer, Licensed Architect, or building inspector*

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

IF ARCHITECT /ENGINEER, INCLUDE STAMP IN SPACE BELOW

**PART D – ATTACHMENT CHECKLIST**

The following is a summary of attachments required by this application, please check the appropriate box:

DESCRIPTION	CHECK IF ATTACHED	CHECK IF NOT APPLICABLE
Purchase and sale agreement or bill of sale		
Deed		
Employment agreement		
Draft copy of Pre-need letter		
Business Certificate (for solo practitioners)		
Partnership attachments		
Corporation attachments		
LLC attachments		
Proof of Insurance		MANDATORY
Accessibility certification or Extension Request		MANDATORY

**PART E – MANDATORY CERTIFICATIONS**

The following must be certified by the Applicant designated on page one of this application:

In submitting this application, I certify the following:

1. I (the Applicant), represent all owners and related business entities of the establishment seeking certification in this application.
2. I agree that this funeral establishment, either directly or through a business entity, shall be majority owned by the Type 3 registrants listed on this application.
3. I agree that, should the Type 3 registrants who are “original owners” of this establishment cease to maintain majority ownership of this funeral establishment, any establishment certificate issued by the Board shall be deemed cancelled. I (we) understand that for purposes of this requirement, a Type 3 registrant who ceases to be registered as a Type 3 shall no longer be considered a valid owner for purposes of this requirement.
4. I certify that I and any other owners and related business entities of this establishment, have complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors and withholding and remitting of child support in conformance with the provisions of M.G.L. c. 62C, sec. 49A.
5. I certify that I and any other owners and related business entities of this establishment, are in compliance with all applicable requirements of the US Occupational Safety and Health Administration.
6. I certify that any business entity to be engaged in the profession and business of embalming and funeral directing pursuant to this establishment certificate application is in compliance with the professional liability insurance requirements set forth in 239 CMR 3.17.
7. I certify that any business entity to be engaged in the profession and business of embalming and funeral directing pursuant to this establishment certificate application does not hold an ownership interest in, or engage in, any business other than the profession and business of embalming and funeral directing as defined in 239 CMR 3.01.
8. I certify that the information contained in this application and any attachments is true and accurate.

Signed under the pains and penalties of perjury

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Social Security Number / FID Number \_\_\_\_\_

BOARD APPROVAL (FOR OFFICE USE ONLY)

Name of New Establishment: \_\_\_\_\_

Street Address: \_\_\_\_\_

This application has been reviewed by the Board on \_\_\_\_\_ and has been  
*Date*  
approved/disapproved for the issuance of an Establishment Certificate in accordance with  
the laws of the Commonwealth and the Rules & Regulations of this Board.

Approval required by three members of the Board.

Signed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Facility Inspected: \_\_\_\_\_

*Signature*

*Date*

## APPLICATION DISTRIBUTION

### **Send the original to the Board office**

Board of Embalming & Funeral Directing  
1 Federal Street, Suite 0600  
Boston, MA 02110-2012