

Annual Trust Reporting to the Montana Board of Funeral Service Frequently Asked Questions (FAQ) Mortuaries, Crematories, and Cemeteries

List of Questions Contained within FAQ Document

General FAQ

1. What is the board's legal authority to require me to submit an annual trust report? Why do I need to submit a report?
2. Who needs to submit a report?
3. What do I need to submit to meet the legal requirements of the board? Do I need to submit any supplementary documentation? Where can I find a copy of the reporting form?
4. Do I need to answer all the questions/fill out all the fields on the form?
5. When is my report due?
6. What is the current reporting period?
7. Can a request an extension to submit my report?
8. What happens if I do not submit a report within the prescribed time?
9. I have not made any sales or deposited any money into trust during the calendar year ending on December 31, 2017. Do I need to submit a report to the board?
10. Is this an audit?
11. What is the board going to do with the information I submit?

Mortuary and Crematory Preneed Trust Account Reporting FAQ

12. Is reporting to the board on my funeral preneed trusts a new requirement?
13. What is my current reporting cycle beginning balance? What is my current reporting cycle end balance?
14. What is my previous reporting cycle end balance?
15. All the preneed contracts sold by my mortuary/crematory from January 1, 2017 through December 31, 2017, are funded using insurance. Do I need to submit a report?
16. This mortuary/crematory has never deposited any preneed funds into trust. All sales have been at-need or funded through insurance. Do I need to submit a report to the board?
17. This mortuary/crematory did not sell any preneed contracts and deposit money in trust during the calendar year ending on December 31, 2017. However, this mortuary/crematory currently has money in trust from past sales. Do I need to submit a report to the board?
18. I recently purchased this mortuary/crematory from a previous owner. Do I need to submit a report to the board?
19. This mortuary/crematory utilizes a third party(s) to manage/oversee its trusts. Can the trust company submit the report for me? Why not?
20. This mortuary/crematory utilizes a third party(s) to manage/oversee my trust(s). What address(s) do I put in Section 5, "Montana Branch Mailing Address" column on page 3 of the form?
21. This mortuary/crematory deposits money into the Montana Funeral Trust, which is managed by a third party with a New York address. What address should I put in Section 5, "Montana Branch Mailing Address" column (page 3 of the form)?
22. I am a business entity (sole proprietor, LLC, corporation, etc.) with multiple licenses under that single business entity. For example, I have mortuary license, a crematory license, and a branch establishment license and all accounting and trusts are centrally managed by the business entity. Do I need to submit more than one report to the board?
23. I am a business entity (sole proprietor, LLC, corporation, etc.) with multiple licenses under that single business entity. However, the accounts and trusts are decentralized and managed independently by each DBA as opposed to being centrally managed by the business entity. Do I need to submit more than one report to the board?
24. Is this an audit?

Cemetery Perpetual Care and Maintenance Trust Fund Account Reporting FAQ

25. Is reporting to the board on my perpetual care and maintenance trust a new requirement?
26. How is the reporting this year different than the reporting that was required in past years?
27. Can I submit using an older version of the reporting form?
28. I have not made any deposits into the perpetual care and maintenance trust fund calendar year ending on December 31, 2017. Do I need to submit a report to the board?
29. What is my previous reporting cycle end balance?
30. What is my current reporting cycle beginning balance? What is my current reporting cycle end balance?
31. Is this an audit?

(Responses begin on next page)

General FAQ

1. **What is the board's legal authority to require me to submit an annual trust report? Why do I need to submit a report?**

The board has certain regulatory oversight of trust accounts maintained for both cemetery perpetual care and maintenance and funeral preneed per [Title 37, chapter 19, part 8, MCA](#). This oversight includes authority to require that minimum accounting principles and practices are observed. There are statutory requirements for licensee requirements regarding the management and deposit of preneed trusts (see [37-19-827](#) and [37-19-828](#), MCA) and cemetery perpetual care and maintenance trust funds ([37-19-822](#), [37-19-823](#), [37-29-828](#), [37-19-829](#), MCA). Using the authority granted in statute the board adopted the current administrative rules for annual trust reporting requirements in November 2017. These included modifications the previously-existing cemetery perpetual care and maintenance trust rules and completely new rules for mortuary and crematory preneed trust reporting.

These rules, which are found in [ARM Title 24, chapter 147, subchapter 16](#), carry the force of law. [ARM 24.147.1604](#) (cemeteries) and [24.147.1608](#) (mortuaries and crematories) specifically describe the annual trust reporting requirements. See the response to question 11 for further information regarding what the board will do with the information submitted by the licensees.

2. **Who needs to submit a report?**

Every licensed cemetery, mortuary, and crematory must submit a report on a board-designed reporting form. The reports must be signed by the owner, mortician-in-charge, crematory operator-in-charge, or cemetery manager.

3. **What do I need to submit to meet the legal requirements of the board? Do I need to submit any supplementary documentation? Where can I find a copy of the reporting form?**

All you need to do is complete and submit the appropriate form which is available on the board's website. No other supplementary documentation is required. The forms must be signed by the owner or person-in-charge. [Mortuaries and crematories need to fill out this form](#). [Cemeteries need to fill out this form](#). If you have trouble accessing those links you can also download the forms by going to the board's webpage at www.funeral.mt.gov and clicking on the "Forms" tab. You can also contact the board office at 406-841-2394 or dlibsdfnr@mt.gov if you have trouble accessing the forms.

4. **Do I need to answer all the questions/fill out all the fields on the form?**

Yes, you respond to **all** questions on the form unless the form indicates that a certain response to one questions allows you to skip sections or questions. Note that if the answer to a question is "0" (e.g. \$0, 0 preneed contracts sold, 0 grave sites sold, etc.), answer "0" on that space. Do not leave the space blank.

5. **When is my report due?**

March 1, 2018

6. **What is the current reporting period?**

The period for the report due by March 1, 2018, is **January 1, 2017 – December 31, 2017** (i.e. calendar year 2017).

7. Can a request an extension to submit my report?

Yes. However, you must request an extension prior to the required submission deadline of March 1, 2018. Also, keep in mind that board will need to meet and evaluate each whether to grant each extension request on a case-by-case basis.

8. What happens if I do not submit a report within the prescribed time?

Per board administrative rule, a licensee who does not file its report within the time prescribed may be subject to disciplinary action as prescribed by the Montana Administrative Procedure Act and [Title 37, chapter 1, part 3, MCA](#). This can include a fine of up to \$1,000.

9. I have not made any sales or deposited any money into trust during the calendar year ending on December 31, 2017. Do I need to submit a report to the board?

Yes, all licensed mortuaries, crematories, and cemeteries are required to report regardless of whether any money was deposited into a trust during calendar year 2017. The questions on the form are designed so that certain sections may or may not need to be filled out depending upon trust deposits or lack of trust deposits. See also answers to questions 15, 16, 17, 18 (mortuaries and crematories), and 25 and 26 (cemeteries).

10. Is this an audit?

No. See responses to questions 24 (mortuaries and crematories) and 31 (cemeteries).

11. What is the board going to do with the information I submit?

The board will compare the trust information reported by licensed mortuaries, crematories, and cemeteries with corresponding information which is reported by the banks, credits unions, etc. in Montana who hold those trusts accounts (financial institutions are required to report to the board per [37-19-829, MCA](#)). Using that information, the board will make a determination whether further information and/or an audit is necessary. The board would only initiate an audit if it suspects a licensee of wrongdoing under these statutes and rules.

Mortuary and Crematory Preneed Trust Account Reporting FAQ**12. Is reporting to the board on my funeral preneed trusts a new requirement?**

Yes. As a licensee you have always had the statutory responsibilities regarding the management and deposit of preneed trusts (see [37-19-827](#) and [37-19-828](#), MCA). However, this will be the first year that the board has implemented administrative rules requiring mortuaries and crematories to submit annual trust reports (see specifically [ARM 24.147.1606](#) and [24.147.1608](#)).

13. What is my current reporting cycle beginning balance? What is my current reporting cycle end balance?

Your current reporting cycle **beginning balance** is the balance of your trust account(s) on **January 1, 2017**. Your **end balance** is the closing balance of your trust account(s) as of **December 31, 2017**.

14. What is my previous reporting cycle end balance?

This is the first year the board is requiring mortuaries and crematories to report on their trust accounts so there is no "previous reporting cycle". You can leave that line blank or write "N/A".

15. All the preneed contracts sold by my mortuary/crematory from January 1, 2017, through December 31, 2017, are funded using insurance. Do I need to submit a report?

Yes. Every licensed mortuary and crematory must submit a report on a board-designed reporting form. The questions on the form are designed so that certain sections may or may not need to be filled out depending upon trust deposits or lack of trust deposits.

16. This mortuary/crematory has never deposited any preneed funds into trust. All sales have been at-need or funded through insurance. Do I need to submit a report to the board?

Yes. Every licensed mortuary, branch establishment, and crematory must submit a report on a board-designed reporting form. The questions on the form are designed so that certain sections may or may not need to be filled out depending upon trust deposits or lack of trust deposits.

17. This mortuary/crematory did not sell any preneed contracts and deposit money in trust during the calendar year ending on December 31, 2017. However, this mortuary/crematory currently has money in trust from past sales. Do I need to submit a report to the board?

Yes. Every licensed mortuary and crematory must submit a report on a board-designed reporting form. The questions on the form are designed so that certain sections may or may not need to be filled out depending upon trust deposits or lack of trust deposits.

18. I recently purchased this mortuary/crematory from a previous owner. Do I need to submit a report to the board?

Yes. The mortuary/crematory is now licensed under you. As the current owner of the business you are responsible for reporting regarding calendar year 2017 preneed trust activity (or lack of preneed trust activity). Every licensed mortuary, branch establishment, and crematory must submit a report on a board-designed reporting form. The questions on the form are designed so that certain sections may or may not need to be filled out depending upon trust deposits or lack of trust deposits.

19. This mortuary/crematory utilizes a third party(s) to manage/oversee its trust(s). Can the trust company submit the report for me? Why not?

No, you must submit your own report. You can certainly use the information provided to you by your trust company and/or financial institution to assist you in completing the form. However, it is **you, the licensee**, who must report to the board regarding your activities as it is the licensee the board is regulating. The board does not have the legal authority to require the Montana Funeral Trust or any other third parties who are assisting you in managing your trust(s) to report to the board. The board in no way oversees or has control over those third party entities. The board does have the very limited statutory authority to require financial institutions as described in [37-19-829, MCA](#), to report on trusts held within those institutions. However, the trust companies themselves do not fall under that statute. The board cannot order an audit of a trust company or discipline the trust company as that is entirely outside its jurisdiction. In the end it comes back to the fact that it is the licensee who is obligated to report to the board.

20. This mortuary/crematory utilizes a third party(s) to manage/oversee its trust(s). What address(s) do I put in Section 5, "Montana Branch Mailing Address" column on page 3 of the form?

The address should be the address of whichever banking institution, savings or building and loan association, or credit union in which the trust actual is deposited, not the business address of the third-party trust company. Make sure you list the address of the Montana branch of that financial institution as [37-29-828\(1\)\(b\)](#), MCA, requires that the financial institution must maintain an office in this state.

21. This mortuary/crematory deposits money into the Montana Funeral Trust, which is managed by a third party with a New York address. What address should I put in Section 5, "Montana Branch Mailing Address" column (page 3 of the form)?

The address of the Montana bank branch for the Montana Funeral Trust is: First Interstate Bank/CO Montana Funeral Trust – 401 North 31st St, Billings MT 59101.

22. I am a business entity (sole proprietor, LLC, corporation, etc.) with multiple licenses under that single business entity. For example, I have mortuary license, a crematory license, and a branch establishment license and all accounting and trusts are centrally managed by the business entity. Do I need to submit more than one report to the board?

No, you only need to submit one report for all the licenses under the business entity if all accounts are managed centrally under that business name. However, please make sure you list **all** the license numbers on Section 1, line 2 (page 1 of the report) so the board knows this report applies to all of those licenses. If the physical addresses are different, list all the separate addresses as well. In this example you would need to indicate you were reporting for three licenses: the mortuary, crematory, and branch establishment.

23. I am a business entity (sole proprietor, LLC, corporation, etc.) with multiple licenses under that single business entity. However, the accounts and trusts are decentralized and managed independently by each DBA as opposed to being centrally managed by the business entity. Do I need to submit more than one report to the board?

Yes, if each facility has decentralized accounting independent from the business entity then each of those decentralized licenses needs to submit its own individual report. However, if your trust accounts are centrally managed, see response to question 22.

24. Is this an audit?

No, this is merely an annual report to the board from the licensee. See the response to questions 10 and 11 for more information on what the board will do with this report.

Cemetery Perpetual Care and Maintenance Trust Fund Account Reporting FAQ

25. Is reporting to the board on my perpetual care and maintenance trust a new requirement?

No. The board has required cemeteries to report on perpetual care and maintenance trust funds since 2006. Additionally, as a licensee you have always had statutory responsibilities regarding the management of these trusts. However, the form that you need to submit has changed (see response to question 26). Additionally, the report is now due on March 1 instead of June 1.

26. How is the reporting this year different than the reporting that was required in past years?

The board has updated its administrative rules regarding perpetual care and maintenance trust funds. The new language more clearly delineates the information the board actually needs from the licensees in these reports. The board has also moved the due date for the report to March 1. The amendments also clarify the process for a licensee who needs to request an extension (see response to question 7).

Because of the amendments to the rules the board has updated the annual cemetery reporting form. Make sure you submit the [current cemetery reporting form](#). Past versions of the reporting form will not be accepted.

27. Can I submit using an older version of the reporting form?

No, you must use the [current cemetery reporting form](#). See also the response to question 26.

28. I have not made any deposits into the perpetual care and maintenance trust fund calendar year ending on December 31, 2017. Do I need to submit a report to the board?

Yes. Every licensed cemetery must submit a report on a board-designed reporting form. At the very least you will have interest to report. You may also have expenditures, service charges, etc.

29. What is my previous reporting cycle end balance?

Your **previous reporting cycle end balance** is the balance of your trust account(s) as of **December 31, 2016**, which would have been reported on the report you submitted to the board by **June 1, 2017**. The amount should be the same as your beginning balance for this current calendar year 2017 reporting cycle (see response to question 30 below).

30. What is my current reporting cycle beginning balance? What is my current reporting cycle end balance?

Your current reporting cycle **beginning balance** is the balance of your trust account(s) on **January 1, 2017**. Your **end balance** is the ending balance of your trust account(s) as of **December 31, 2017**.

31. Is this an audit?

No, this is merely an annual report to the board from the licensee. See the response to questions 10 and 11 for more information on what the board will do with this report.

If you have further questions please contact Executive Officer Lucy Richards at 406-841-2394 or dlibsdfnr@mt.gov.