

This is an amendment to 16.64.1 NMAC, Sections 7, 10 and 11, effective 11/1/2019.

16.64.1.7 DEFINITIONS:

- A.** “board” means the board of funeral services;
- B.** “committal service” means a service at a place of interment or entombment that follows a funeral conducted at another location;
- C.** “conspicuously displayed” means certificate of licensure and inspection results notice are collectively posted in a location where a member of the general public within the licensee's place of business will be able to observe and read the certificate of licensure and inspection results notice.
- D.** “custody” means the right to make all decisions, consistent with applicable laws, regarding the handling of a dead body, including, but not limited to, possession, at-need funeral arrangements, final disposition and disinterment.
- ~~[D.]~~ **E.** ~~“eremains”~~ “cremated remains” means ~~[eremated remains]~~ the remains of a dead human body which has been reduced by direct flame to a residue, which includes bone fragments;
- ~~[E.]~~ **F.** “cremation” means the reduction of a dead human body by direct flame to a residue, which includes bone fragments;
- ~~[F.]~~ **G.** “crematory” means every place or premises that is devoted to or used for cremation and pulverization of the ~~[eremains]~~ cremated remains;
- ~~[G.]~~ **H.** “crematory authority” means the individual who is ultimately responsible for the operation of a crematory;
- ~~[H.]~~ **I.** “department” means the regulation and licensing department;
- ~~[I.]~~ **J.** “direct disposer” means a person licensed to engage solely in providing direct disposition at a direct disposition establishment, licensed pursuant to the Funeral Services Act, as provided in that act;
- ~~[J.]~~ **K.** “direct disposition” means only the disposition of a dead human body as quickly as possible, without a direct disposer performing or arranging a funeral, graveside service, committal service or memorial service, whether public or private, and without embalming of the body unless embalming is required by the place of disposition;
- ~~[K.]~~ **L.** “direct supervision” means that the supervising funeral service practitioner is physically present with and in direct control of the person being trained;
- ~~[L.]~~ **M.** “disposition” means the final disposal of a dead human body, whether it be by earth interment, aboveground interment or entombment, cremation, burial at sea or delivery to a medical school, when the medical school assumes complete responsibility for the disposal of the body following medical study;
- N.** “embalmer” means a person licensed to engage in embalming and preparing a dead human for funeral service at a funeral establishment that is licenses pursuant to the funeral service act;
- ~~[M.]~~ **O.** “embalming” means the disinfection, preservation and restoration, when possible, of a dead human body by a licensed funeral service practitioner or a licensed funeral service intern under the supervision of a licensed funeral service practitioner;
- ~~[N.]~~ **P.** “ennichement” means interment of ~~[eremains]~~ cremated remains in a niche in a columbarium, whether in an urn or not;
- ~~[O.]~~ **Q.** “entombment” means interment of a casketed body or ~~[eremains]~~ cremated remains in a crypt in a mausoleum;
- ~~[P.]~~ **R.** “establishment” means every office, premises or place of business where the practice of funeral service or direct disposition is conducted or advertised as being conducted and includes commercial establishments that provide for the practice of funeral service or direct disposition services exclusively to licensed funeral or direct disposition establishments or a school of medicine;
- ~~[Q.]~~ **S.** “funeral” means a period following death in which there is an organized, purposeful, time-limited, group centered ceremony or rite, whether religious or not, with the body of the deceased present;
- T.** “funeral arranger” means a person licensed to engage in arrangements and directing of funeral services at a funeral establishment that is licensed pursuant to the Funeral Services Act;
- ~~[R.]~~ **U.** “funeral merchandise” means that personal property offered for sale in connection with the transportation, funeralization or disposition of a dead human body, including the enclosure into which a dead human body is or ~~[eremains]~~ cremated remains are directly placed, and excluding mausoleum crypts, interment enclosures preset in a cemetery and columbarium niches;

~~[S.]~~ **V.** “**funeral service intern**” means a person licensed to be in training for the practice of funeral service under the supervision and instruction of a funeral service practitioner at a funeral establishment or commercial establishment, licensed pursuant to the Funeral Services Act;

W. “**funeral service intern – direct supervision**” means a licensed funeral service intern who is under direct supervision and instruction of a licensed funeral service practitioner at a funeral establishment or commercial establishment, licensed pursuant to the Funeral Services Act;

X. “**funeral service intern – general supervision**” means a licensed funeral service intern who is under general supervision and instruction of a licensed funeral service practitioner at a funeral establishment or commercial establishment, licensed pursuant to the Funeral Services Act;

~~[T.]~~ **Y.** “**funeral service practitioner**” means a person licensed to engage in the practice of funeral service at a funeral establishment or commercial establishment that is licensed pursuant to the Funeral Services Act;

~~[U.]~~ **Z.** “**funeral services**” means those immediate post-death activities related to a dead human body and its care and disposition, whether with or without rites or ceremonies; but ‘funeral services’ does not include disposition of the body by a school of medicine following medical study;

~~[V.]~~ **AA.** “**general supervision**” means that the supervising funeral service practitioner is not necessarily physically present in the establishment with the person being trained but is available for advice and assistance;

~~[W.]~~ **BB.** “**graveside service**” means a funeral held at the graveside only, excluding a committal service that follows a funeral conducted at another location;

~~[X.]~~ **CC.** “**jurisprudence examination**” means an examination prescribed by the board on the statutes, rules and regulations pertaining to the practice of funeral service or direct disposition, including the Funeral Services Act, the rules of the board, state health regulations governing human remains and the Vital Statistics Act;

~~[Y.]~~ **DD.** “**licensee in charge**” means a funeral service practitioner who is ultimately responsible for the conduct of a funeral or commercial establishment and its employees; or a direct disposer who is ultimately responsible for the conduct of a direct disposition establishment and its employees;

~~[Z.]~~ **EE.** “**make arrangements**” means advising or counseling about specific details for a funeral, graveside service, committal service, memorial service, disposition or direct disposition;

~~[AA.]~~ **FF.** “**memorial service**” means a gathering of persons for recognition of a death without the presence of the body of the deceased;

~~[BB.]~~ **GG.** “**practice of funeral service**” means those activities allowed under the Funeral Services Act by the funeral service practitioner or funeral service intern; and

~~[CC.]~~ **HH.** “**pulverization**” means the process that reduces ~~[eremains]~~ cremated remains to a granular substance.

II. “**retort**” means a vessel or chamber in which substances are distilled or decomposed by heat.
[6/15/1996; 16.64.1.7 NMAC - Rn & A, 16 NMAC 64.1.7, 9/15/2001; A, 8/8/2012; A, 11/1/2019]

16.64.1.10 — ~~**INSPECTION OF BOARD RECORDS:**~~ The board operates in compliance with the Inspection of Public Records Act

~~**A.** The board administrator will be the custodian of the board's records.~~

~~**B.** Except as otherwise provided by law, all records kept by the board shall be available for public inspection pursuant to the Inspection of Public Records Act, except as provided herein:~~

~~(1) the contents of any examination used to examine an applicant's knowledge or competence;~~

~~(2) letters of reference;~~

~~(3) matters of opinion;~~

~~(4) complaints, and investigative files obtained during the course of an investigation or processing of a complaint, and before the vote of the board as to whether to dismiss the complaint or to issue a notice of contemplated action as provided in the Uniform Licensing Act, NMSA 1978, Section 61-1-1 et seq., and in order to preserve the integrity of the investigation of the complaints, records and documents that reveal confidential sources, methods, information or licensees accused, but not yet charged with a violation, such records shall include evidence in any form received or compiled in connection with any such investigation of the complaint or of the licensee by or on behalf of the board by any investigating agent or agency; upon the completion of the investigation or processing of the complaint, AND upon the decision of the board to dismiss the complaint or to issue a notice of contemplated action, the confidentiality privilege shall dissolve, and the records, documents or other evidence pertaining to the complaint and to the investigation of the complaint shall be available for public inspection; and~~

~~(5) any other records excepted from disclosure pursuant to the Inspection of Public Records Act.~~

~~C. Only board members and employees may access non public records unless approved by the board chairman AND the board attorney.~~

~~D. Anyone may examine all public records in the board's custody, provided the person gives notice to the board administrator in accordance with the Inspection of Public Records Act.~~

~~E. The board may charge a reasonable fee to defray copying and mailing charges for copies of public records, lists and labels, pursuant to the Inspection of Public Records Act. The board administrator is not obligated to create lists, labels or any other materials which are not already in existence.~~

~~F. No person shall be permitted to remove original documents from the board's office, except those in the possession of the board administrator that are needed at a meeting of the board.]~~

16.64.1.10 ADVERTISING: All advertising including but not limited to; signs, newspaper listings, business cards, television, radio and internet advertisements are controlled by an entity licensed by the New Mexico Board of Funeral Services and must operate as follows:

A. The licensed name of the entity must appear on the advertisement;

B. All advertising entities must be licensed by the New Mexico Board of Funeral Services and the establishment license number must appear on the contact information;

C. The entities physical address and phone number must be displayed on the contact information;

D. Irrespective of the name on the website, provisions must be made on an establishments website so the individual who wishes to enter into a funeral-related contract or transaction, must *not* be able to complete such a transaction without openly and apparently dealing with the licensed entity under the licensed name as reflected in the records of the New Mexico Board of Funeral Services;

E. No funeral establishment, commercial establishment, crematory, or direct disposer shall advertise in a manner that is false, misleading, or deceptive;

F. A website belonging to a crematory society or funeral service society shall be linked with a licensed funeral establishment. The licensed funeral establishment and its location shall be provided on the website or advertising;

[9/27/1990...9/26/1993, 1/22/1999; 16.64.1.10 NMAC - Rn & A, 16 NMAC 64.1.10, 9/15/2001; A, 11/1/2019]

16.64.1.11 DOCUMENTS AND CONTRACTS:

A. All official documents and contracts of any establishment shall bear the signature of the [arranger(s), where applicable, and the] licensee signing the document or contract as the representative of the establishment, together with the licensee's license classification and license number, and the date the document or contract was signed by the [arranger(s) and licensee] licensees. The following classification abbreviations shall be allowed:

- (1) FSP - funeral service practitioner;
- (2) FSI - funeral service intern (– general);
- (3) Arranger;
- (4) Embalmer;

~~(3)~~ (5) DD - direct disposer.

B. Each establishment and crematory shall maintain copies of all official documents and contracts for funeral, direct disposition, cremation, and any other services rendered for services that fall within the scope of the license held pursuant to Section 61-32-1 et seq NMSA 1978., documents shall include, but are not limited to:

(1) contracts;

(2) authorizations; which shall include names, dates and times of authorization as required by the authorizing agents;

- (3) permits;
- (4) death certificates;
- (5) embalming case reports; and
- (6) cremations.

C. Each establishment shall maintain documentation with dates and times of all services rendered by the establishment, or on behalf of the establishment by the crematory or other subcontractors, up to and including final disposition.

D. Each establishment shall maintain copies of all official documents and contracts outlined in 16.16.1.11 NMAC at the establishment for a period of not less than seven years, and shall make such documents and contracts available for inspection by the board or it's designee.

[5/15/1992...9/26/1993; 16.64.1.11 NMAC - Rn & A, 16 NMAC 64.1.11, 9/15/2001; A, 8/8/2012; A, 11/1/2019]

History of 16.64.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

Regulation No. 1, Meeting Dates, 8/15/1988.

Regulation 1, Meeting Dates, 4/15/1991.

Reg. 1, Board Meetings, 8/27/1993.

Regulation No. 2, Forms of Certificates of Qualifications and Licenses, 8/15/1988.

Regulation 2, Forms of Certificates of Qualifications and Licenses, 4/15/1991.

Reg. 8, Certificates of Licensure, 8/27/1993.

Regulation No. 14, Inspection of Board Records, 8/28/1990.

Regulation 14, Inspection of Board Records, 4/15/1991.

Reg. 2, Inspection of Board Records, 8/27/1993.

Regulation 21, Documents and Contracts, 4/15/1992.

Reg. 19, Documents and Contracts, 8/27/1993.

History of Repealed Material: [RESERVED]