

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 64 FUNERAL HOMES AND DISPOSERS
PART 1 GENERAL PROVISIONS

16.64.1.1 ISSUING AGENCY: New Mexico Board of Funeral Services.
[6-15-96, 1-22-99; 16.64.1.1 NMAC - Rn & A, 16 NMAC 64.1.1, 09-15-01; A, 08-08-12]

16.64.1.2 SCOPE: 16.64.1 NMAC applies to the board, licensees, applicants for licensure, and the general public.
[6-15-96; 16.64.1.2 NMAC - Rn & A, 16 NMAC 64.1.2, 09-15-01]

16.64.1.3 STATUTORY AUTHORITY: 16.64.1 NMAC is adopted pursuant to the Funeral Services Act, NMSA 1978, Section 61-32-2, 61-32-5, 61-32-6, 61-32-7, and 61-32-12, the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978, and the Open Meeting Act, Section 10-15-1 et seq. NMSA 1978.
[6-15-96; 16.64.1.3 NMAC - Rn & A, 16 NMAC 64.1.3, 09-15-01; A, 08-08-12]

16.64.1.4 DURATION: Permanent.
[6-15-96; 16.64.1.4 NMAC - Rn, 16 NMAC 64.1.4, 09-15-01]

16.64.1.5 EFFECTIVE DATE: September 26, 1993, unless a different date is cited at the end of a section.
[6-15-96; 16.64.1.5 NMAC - Rn & A, 16 NMAC 64.1.5, 09-15-01]

16.64.1.6 OBJECTIVE: 16.64.1 NMAC is to establish the requirements for board meetings, display of certificates of licensure, inspection of public records, and minimum requirements for documents and contracts.
[6-15-96; 16.64.1.6 NMAC - Rn & A, 16 NMAC 64.1.6, 09-15-01]

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. "cremains" means cremated remains;
- E. "cremation" means the reduction of a dead human body by direct flame to a residue, which includes bone fragments;
- F. "crematory" means every place or premises that is devoted to or used for cremation and pulverization of the cremains;
- G. "crematory authority" means the individual who is ultimately responsible for the operation of a crematory;
- H. "department" means the regulation and licensing department;
- I. "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. "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. "direct supervision" means that the supervising funeral service practitioner is physically present with and in direct control of the person being trained;
- L. "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;
- M. "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. “ennichement” means interment of cremains in a niche in a columbarium, whether in an urn or not;
 - O. “entombment” means interment of a casketed body or cremains in a crypt in a mausoleum;
 - P. “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. “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;
 - R. “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 cremains are directly placed, and excluding mausoleum crypts, interment enclosures preset in a cemetery and columbarium niches;
 - S. “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;
 - T. “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. “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. “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. “graveside service” means a funeral held at the graveside only, excluding a committal service that follows a funeral conducted at another location;
 - X. “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. “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. “make arrangements” means advising or counseling about specific details for a funeral, graveside service, committal service, memorial service, disposition or direct disposition;
 - AA. “memorial service” means a gathering of persons for recognition of a death without the presence of the body of the deceased;
 - BB. “practice of funeral service” means those activities allowed under the Funeral Services Act by the funeral service practitioner or funeral service intern; and
 - CC. “pulverization” means the process that reduces cremains to a granular substance.
- [6-15-96; 16.64.1.7 NMAC - Rn & A, 16 NMAC 64.1.7, 09-15-01; A, 08-08-12]

16.64.1.8 GENERAL PROVISIONS:

- A. All certificates of licensure, and renewals thereof, issued by the board shall bear the license number, with a different series for each classification of license.
 - B. The current license, or renewal thereof, of each establishment and crematory and inspection results notice shall be conspicuously displayed in the establishment or crematory, together with the current license, or renewal thereof, of each licensee. The licensee must carry on their person the state issued wallet card license.
 - C. Any correspondence from the board will be mailed to a licensee at the last address shown in board records. It shall be incumbent on each licensee to notify the board of any change of address.
- [2-7-76...9-26-93; 16.64.1.8 NMAC - Rn & A, 16 NMAC 64.1.8, 09-15-01; A, 08-08-12]

16.64.1.9 BOARD MEETINGS: The board operates in compliance with the Open Meetings Act.

- A. Election of officers shall be held at the first regular board meeting of each fiscal year, and may be held at any other regularly scheduled meeting of the board, or special or emergency meeting called for that purpose.
- B. Any member of the board who, after proper notice, fails to attend three consecutive meetings of the board shall be recommended for removal as a board member unless such absences are considered excused. Absences will be considered excused if notice by the board member has been given in advance of any meeting to the

chairman or board administrator, and the chairman or board administrator announces at the meeting that notice by the board member was given in advance of his or her inability to attend the meeting.
[2-7-76...9-26-93, 1-22-99; 16.64.1.9 NMAC - Rn & A, 16 NMAC 64.1.9, 09-15-01]

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 compliant 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.
[9-27-90...9-26-93, 1-22-99; 16.64.1.10 NMAC - Rn & A, 16 NMAC 64.1.10, 09-15-01]

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. The following classification abbreviations shall be allowed:
 - (1) FSP - funeral service practitioner;
 - (2) FSI - funeral service intern;
 - (3) 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 61-32-1 et seq., documents shall include, but are not limited to:
 - (1) contracts;
 - (2) authorizations;
 - (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 (7) years, and shall make such documents and contracts available for inspection by the board or its designee.
[5-15-92...9-26-93; 16.64.1.11 NMAC - Rn & A, 16 NMAC 64.1.11, 09-15-01; A, 08-08-12]

16.64.1.12 TELEPHONE CONFERENCES: Pursuant to the provisions of the Open Meetings Act, if it is difficult or impossible for a member of the board to attend a meeting in person, the member may participate through telephone conference. Each member participating by telephone conference must be identified when speaking, all participants must be able to hear each other at the same time and members of the public attending the meeting must be able to hear any member of the board who speaks during the meeting.
[1-22-99; 16.64.1.12 NMAC - Rn & A, 16 NMAC 64.1.12, 09-15-01]

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, 8-15-88.
- Regulation 1, Meeting Dates, 4-15-91.
- Reg. 1, Board Meetings, 8-27-93.
- Regulation No. 2, Forms of Certificates of Qualifications and Licenses, 8-15-88.
- Regulation 2, Forms of Certificates of Qualifications and Licenses, 4-15-91.
- Reg. 8, Certificates of Licensure, 8-27-93.
- Regulation No. 14, Inspection of Board Records, 8-28-90.
- Regulation 14, Inspection of Board Records, 4-15-91.
- Reg. 2, Inspection of Board Records, 8-27-93.
- Regulation 21, Documents and Contracts, 4-15-92.
- Reg. 19, Documents and Contracts, 8-27-93.

History of Repealed Material: [Reserved]