

PROPOSED REGULATION OF THE NEVADA FUNERAL AND CEMETERY SERVICES BOARD

LCB File No. R067-15

CHAPTER 642 - FUNERAL DIRECTORS, EMBALMERS AND OPERATORS OF CEMETERIES AND CREMATORIES

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GENERAL PROVISIONS

NAC 642.010 Definitions. (NRS 642.063) As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 642.010 to 642.0175, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Funeral Bd. by R043-02, eff. 11-26-2003)

NAC 642.030 Funeral establishment: "Inventory of funeral caskets" interpreted. (NRS 642.016, 642.063) The Board interprets the term "inventory of funeral caskets," as used in NRS 642.016, to mean an inventory that consists of one or more of the following:

1. A complete, full-size funeral casket.
2. A partial funeral casket, or cross section of a funeral casket, that:
 - (a) Is executed in the same scale as a full-size casket; and

(b) Includes a portion of a complete casket, and each significant feature or component thereof, sufficient to provide a prospective purchaser with information that is reasonably equivalent to that obtainable from inspection of a complete casket.

3. Photographs of one or more caskets available for viewing in the display room by means of a catalog or connection to the Internet.

(Added to NAC by Funeral Bd. by R021-04, eff. 10-31-2005)

LICENSING AND FEES

NAC 642.080 Temporary authorization to engage in certain regulated activities while application is pending: Issuance; scheduling of application for action by Board. (NRS 642.063, 642.515)

1. The Chairman of the Board will issue a temporary authorization pursuant to NRS 642.515, on behalf of the Board, if the applicant meets the requirements of that section and is applying for:

(a) A license as a funeral director pursuant to NRS 642.340;

(b) Approval to manage a funeral establishment pursuant to NRS 642.345;

(c) A ~~license to direct cremations or immediate burials~~ direct cremation facility permit pursuant to NRS 642.XXX; ~~for~~

(d) A permit to operate a funeral establishment pursuant to NRS 642.365; *or*

(e) A license as a funeral arranger pursuant to NRS 642.XXX

2. The application of an applicant who is issued a temporary authorization pursuant to this section must be placed on the agenda of the meeting of the Board next following the approval of the temporary authorization for action by the Board.

(Added to NAC by Funeral Bd. by R043-02, eff. 11-26-2003)

NAC 642.090 Funeral director's license: Transfer to different funeral establishment. (NRS 642.063, 642.345)

1. A person who is licensed as a funeral director may apply to the Board for approval to transfer his license from the funeral establishment *or direct cremation facility* which he has been approved to manage to a different funeral establishment *or direct cremation facility*.

2. An application submitted pursuant to this section must be on a form provided by the Board and must be accompanied by:

(a) Payment or proof of payment of the renewal fee or the transfer fee set forth in *NRS 642.0696* ~~subsection 3 of NAC 642.120;~~ and

(b) Proof satisfactory to the Board that the funeral establishment *or direct cremation facility* to which the applicant wishes to transfer has a valid permit to operate a funeral establishment *or direct cremation facility*.

3. Upon receipt and approval of the items described in subsection 2, the Board will approve a transfer pursuant to this section.

4. Upon approval by the Board of a transfer pursuant to this section, the applicant may not manage the funeral establishment *or direct cremation facility* from which his license was transferred unless he has otherwise been approved by the Board to manage more than one funeral establishment *or direct cremation facility* pursuant to subsection 2 of NRS 642.345.

(Added to NAC by Funeral Bd. by R043-02, eff. 11-26-2003)

NAC 642.XXX Approval to Manage a Location

- 1. The Board shall not approve a funeral director to manage a funeral establishment or direct cremation facility unless he or she resides within 120 miles of the location, and can be reasonably available during regular business hours for proper management.***
- 2. The Board shall not approve a funeral director to manage more than one funeral establishment or direct cremation facility unless the locations are fewer than 120 miles apart.***
- 3. The Board shall not approve a funeral director to manage more than three locations.***
- 4. The Board may make an exception to 642.XXX (1) and (2) at their discretion.***

NAC 642.100 License to operate crematory: Payment of fees for renewal. (NRS 642.063, 642.069) Before February 1 of each *even* year, a person who is licensed to operate a crematory pursuant to chapter 451 of NRS shall pay the fee set forth in ***NRS 642.0696*** ~~subsection 7 of NAC 642.120~~ to renew his license. If he does not pay the required fee before February 1, the licensee shall pay the late fee set forth in ***NRS 642.0696*** ~~subsection 7 of NAC 642.120~~ in addition to the renewal fee.

The Board will not accept an application for renewal of a license to operate a crematory submitted after March 1 of every even year.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95; A by Funeral Bd. by R043-02, 11-26-2003)

NAC 642.110 Certificate of authority to operate cemetery: Payment of fees for renewal. (NRS 642.063, 642.069) Before February 1 of each *even* year, a person who holds a certificate of authority to operate a cemetery issued pursuant to chapter 452 of NRS shall pay the fee set forth in ***NRS 642.0696*** ~~subsection 6 of NAC 642.120~~ to renew his certificate. If he does not pay the required fee before February 1, the holder of the certificate shall pay the late fee set forth in ***NRS 642.0696*** ~~subsection 6 of NAC 642.120~~ in addition to the renewal fee.

The Board will not accept an application for renewal of a certificate of authority to operate a cemetery submitted after March 1 of every even year.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95; A by Funeral Bd. by R043-02, 11-26-2003)

NAC 642.XXX Renewal of Permits

The Board will not accept an application for renewal of a permit to operate a funeral establishment or direct cremation facility submitted after March 1 of every even year.

NAC 642.XXX Renewal of Licenses

- 1. If a licensed funeral arranger, funeral director, or embalmer causes his license to lapse for any reason, the Board may reinstate the license if application is made within 3 years from the date of lapse and is accompanied by:***
 - (a) All fees, including penalties, from the time of the lapse to the date of reinstatement; and***
 - (b) All information required to complete the reinstatement.***
- 2. After a 3 year lapse, licensee must reapply as a new applicant unless license has been placed on inactive status.***

NAC 642.XXX Apprentice Embalmers; Limitations on Apprenticeships

If a registered apprentice has served two consecutive years as an apprentice embalmer without successfully meeting the needed requirements of the internship pursuant to NRS 642.300, the individual must wait a period of one year prior to applying for a new apprenticeship, and shall receive no credit for previous apprenticeship.

~~{NAC 642.120 Fees: Imposition and amount. (NRS 451.640, 452.026, 452.310, 642.063, 642.069, 642.0696) The Board will charge and collect the following fees:~~

- ~~1. For a permit to operate a funeral establishment:~~
 - ~~(a) Initial application..... \$375~~
 - ~~(b) Annual renewal..... 200~~
 - ~~(c) Late renewal..... 275~~
- ~~2. For a license to conduct direct cremations or immediate burials:~~
 - ~~(a) Initial application..... \$375~~
 - ~~(b) Annual renewal..... 200~~
 - ~~(c) Late renewal..... 275~~
 - ~~(d) Placement of license in inactive status..... 175~~
 - ~~(e) Reactivation of license in inactive status..... 175~~
- ~~3. For a funeral director's license:~~
 - ~~(a) Initial application..... \$375~~
 - ~~(b) Annual renewal..... 200~~
 - ~~(c) Late renewal..... 275~~
 - ~~(d) Examination fee..... 375~~
 - ~~(e) Application to modify a license pursuant to subsection 2 of NRS 642.345.... 100~~
 - ~~(f) Placement of license in inactive status..... 175~~
 - ~~(g) Reactivation of license in inactive status..... 175~~
 - ~~(h) Transfer of license to another funeral establishment..... 225~~
- ~~4. For a certificate of registration as a registered apprentice in the profession of embalming:~~
 - ~~(a) Annual fee..... \$75~~
 - ~~(b) Late renewal..... 275~~
- ~~5. For a license to practice the profession of embalming:~~
 - ~~(a) Initial application \$375~~
 - ~~(b) Examination fee..... 375~~
 - ~~(c) Issuance of a license to a practitioner who is licensed in another state..... 200~~
 - ~~(d) Annual renewal..... 200~~
 - ~~(e) Late renewal..... 275~~
 - ~~(f) Placement of license in inactive status..... \$175~~
 - ~~(g) Reactivation of license in inactive status..... 175~~
- ~~6. For a certificate of authority to operate a cemetery:~~
 - ~~(a) Initial application..... \$1,000~~
 - ~~(b) Annual renewal..... 250~~
 - ~~(c) Late renewal..... 275~~
 - ~~(d) Application to change control of existing cemetery..... 375~~
 - ~~(e) Investigation fee for application to change control of existing cemetery... 250~~

7. For a license to operate a crematory:	
(a) Initial application.....	\$375
(b) Annual renewal.....	250
(c) Late renewal.....	275
(d) Application to change ownership of existing crematory.....	375
8. Deactivation and reactivation of a license, certificate or permit, other than a license to practice the profession of embalming, a funeral director's license or a license to conduct direct cremations or immediate burials.....	\$175
9. Duplicate license, certificate or permit.....	\$75
—(Added to NAC by Funeral Bd. by R043-02, eff. 11-26-2003)]	

STANDARDS OF PRACTICE

NAC 642.150 Location for preparation of funerals. (NRS 642.063, 642.340)

1. Except as otherwise provided in subsection 2, a licensed funeral director shall not engage in the business of preparing for funerals at a place of business which is not the specific street address or location of the fixed place or establishment where the funeral director conducts his business.

2. Upon the request of a member of the family of a dead person, a funeral director may prepare for a funeral at the home of a member of the family or another location designated by a member of the family.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)—(Substituted in revision for NAC 642.115)

~~[NAC 642.160—Transportation of dead human bodies. (NRS 451.640, 642.063)]~~

~~—1. A licensed funeral director, or a person who holds a license to conduct direct cremations or immediate burials, may transport a dead human body if it is embalmed and prepared by a licensed embalmer.~~

~~—2. A licensed funeral director may transport a dead human body that is not embalmed if the body is:~~

~~—(a) Sealed in a container that is approved by the Board; and~~

~~—(b) Transported in a properly licensed motor vehicle or aircraft owned, operated, chartered or leased by a licensed funeral director or mortuary.~~

~~—3. This section does not apply to the immediate transportation of a dead human body to the care of a funeral establishment.]~~

NAC 642.170 Grounds for disciplinary action: Misrepresentation of certain authority. (NRS 642.063, 642.470, 642.515)

1. For the purpose of taking disciplinary action, pursuant to NRS 642.470, ~~[against a person who holds a funeral director's license, a permit to operate a funeral establishment or a license to conduct direct cremations or immediate burials,]~~ the term:

(a) "Unprofessional conduct" includes, in addition to the conduct set forth in NRS 642.480, stating or implying that the holder of the license or permit is willing to carry out a duty for which a license or permit is required pursuant to chapter 642 of NRS if that duty is not authorized by the holder's license or permit. For example, advertising in any form, including, without limitation, signs, telephone books, newspapers, messages conveyed by telephone, television, electronic mail and other electronic or photographic means, that states or implies that a proposed

funeral establishment, *direct cremation facility, crematory, or cemetery* is an operating funeral establishment, *direct cremation facility, crematory, or cemetery* before the Board has issued all licenses and permits necessary for the operation of the *location* ~~establishment~~.

(b) “False or misleading advertising” includes, in addition to the conduct set forth in NRS 642.490, advertising that states or implies that the holder of the license or permit is willing to carry out a duty for which a license or permit is required pursuant to chapter 642 of NRS if that duty is not authorized by the holder’s license or permit. For example, advertising in any form, including, without limitation, signs, telephone books, newspapers, messages conveyed by telephone, television, electronic mail and other electronic or photographic means, that states or implies that a proposed funeral establishment, *direct cremation facility, crematory, or cemetery* is an operating funeral establishment, *direct cremation facility, crematory, or cemetery* before the Board has issued all licenses and permits necessary for the operation of the *location* ~~establishment~~.

2. For the purposes of this section, an applicant for a license or permit who obtains, pursuant to NRS 642.515, a temporary authorization to carry out the duties authorized by the license or permit for which he has applied shall be deemed a holder of that license or permit.

(Added to NAC by Funeral Bd. by R021-04, eff. 10-31-2005)

PRACTICE BEFORE THE NEVADA STATE FUNERAL BOARD

NAC 642.180 Procedure for disciplinary action. (NRS 642.060, 642.063)

1. Any person may file an informal complaint with the Board concerning the acts of a licensee or services provided by a licensee. Such an informal complaint filed with the Board must be on a form provided by the Board and include information that is sufficiently detailed to enable the respondent to prepare a response.

2. Upon receipt of an informal complaint, the staff shall examine the complaint to determine whether it:

(a) Has been properly verified; and

(b) Alleges sufficient facts to warrant further proceedings.

3. If the staff determines that the informal complaint against a licensee has been properly verified and alleges sufficient facts to warrant further proceedings, the staff shall notify the respondent by sending a ~~copy or~~ summary of the informal complaint to the licensee by certified mail. The notification must set forth the potential violations of a provision of this chapter or chapter 451 or 452 of NAC or chapter 451, 452 or 642 of NRS arising in the informal complaint and request a response for the review by the Board before a hearing is set. The transmission of the copy or summary of the informal complaint will be deemed to be a notice of intended action pursuant to subsection 3 of NRS 233B.127.

4. Upon the receipt of a ~~copy or~~ summary of an informal complaint that has been filed against him, a licensee shall submit to the Board a written response to the informal complaint within 15 days after the date on which the informal complaint was served. A response to an informal complaint must respond to the allegations made in the informal complaint and be accompanied by all documentation that would be useful to the staff and legal counsel in their review of the allegations made in the informal complaint and the responses made by the licensee to those allegations. Failure by a licensee to cooperate with the Board during an investigation of an informal complaint, including, without limitation, failing to respond timely to the Board regarding a copy or summary of the informal complaint sent to the licensee by the staff pursuant to this subsection, is a ground for disciplinary action by the Board against the licensee.

5. If a licensee fails to respond as required pursuant to subsection 4, he shall be deemed to have admitted the allegations in the informal complaint. Based on these admissions, the Board may impose appropriate discipline on the licensee at the hearing on the informal complaint.

6. In cases where a response is filed as required pursuant to subsection 4, the staff shall review the informal complaint and the responses made thereto, may enlist the aid of a member of the Board or other qualified persons in the review and may take any other reasonable action necessary to further the review. After their review of the informal complaint and the responses made thereto, the staff may:

(a) Investigate the allegations and employ such persons as they deem necessary to further the investigations;

(b) Consult with experts in the appropriate field, including, without limitation, employing such persons for the purposes of an investigation or a hearing;

(c) Investigate new leads and allegations that may come to their knowledge in the course of the investigation;

(d) Enlist the aid of a member of the Board or other qualified person in the conduct of the investigation; and

(e) Take any other reasonable action necessary to further the investigation.

7. During an investigation of an informal complaint, the staff, or investigator, if any, may demand that a licensee produce his records or other evidence for inspection or copying, with or without prior notice to the licensee, and with or without a subpoena. A licensee shall not deny any such request for records or other evidence if such records or other evidence is not protected by a claim of confidentiality authorized by law. If a licensee refuses or fails to cooperate with a request for records in violation of this subsection, the Board may immediately suspend his license or certificate until the licensee complies with the request for records or other evidence. If the licensee continues to refuse or fail to cooperate with a request for records or other evidence in violation of this section, the Board may take such further disciplinary action against the licensee as the Board determines necessary.

8. If the staff, or investigator, if any, determines that a specific record or other specific evidence is material to or necessary for an investigation, the staff or investigator may remove the record or evidence and provide a copy of the record or evidence to the respondent. If a record or other evidence can be readily copied at the location where the record or evidence is located, the staff or investigator shall make a copy of the record and evidence at that location. If a record or other evidence cannot be readily copied at the location where the record or evidence is located, the staff or investigator may remove the record or evidence from that location to copy the record or evidence. If the staff or investigator removes a record or other evidence to be copied, the staff or investigator shall provide the person to whom the record or evidence being removed belongs with a receipt for the record or evidence and, not later than 5 business days after the record or evidence is removed, provide a copy of the record or evidence to that person.

9. When an investigation of an informal complaint is complete, the staff, and investigator, if any, shall determine whether substantial evidence exists to sustain the alleged violation of a statute or regulation set forth in the informal complaint. If the staff and investigator determine that no allegation of a violation of a statute or regulation set forth in the informal complaint can be sustained, the staff shall notify, in writing, the complainant and the respondent of this determination. If the staff and investigator determine that a violation of a statute or regulation as alleged in the informal complaint can be sustained, the staff and investigator shall inform the legal counsel of such a determination. The legal counsel shall:

(a) Offer mediation to the respondent, a settlement agreement, stipulation of facts and liability or an informal hearing; or

(b) Prepare a notice of hearing and a formal complaint.

10. A notice of hearing and a formal complaint must:

(a) Be a plain statement of the facts and applicable provisions of statutes and regulations regarding the alleged acts of the respondent alleged to be in violation of the statutes and regulations governing the profession of the licensee;

(b) Include the date, time and place that the Board will hear the matter, if this information is known at the time when the notice of hearing and a formal complaint is sent to the respondent; and

(c) Be signed by the legal counsel and, if a member of the Board was active in the investigation, by that member of the Board.

11. The staff shall send, by certified mail, a notice of hearing and a formal complaint prepared pursuant to subsection 10 to the respondent named in the notice of hearing and the formal complaint.

12. A respondent who receives a notice of hearing and a formal complaint shall file his answer to the notice of hearing and the formal complaint not later than 15 days after the date on which he received the notice of hearing and the formal complaint. An answer to a notice of hearing and a formal complaint filed by a respondent must include a response to each allegation and statement made in the notice of hearing and the formal complaint by either admitting to or denying the allegation or statement. If the licensee fails to file an answer as required pursuant to this subsection, he shall be deemed to have admitted each allegation and statement contained in the notice of hearing and the formal complaint. Based on these admissions, the Board may enter a finding and impose appropriate discipline on the licensee in the same manner as if the allegations had been proven by substantial evidence at a hearing of the Board held on the formal complaint.

13. Not later than 10 days after the filing of the response by the respondent, the legal counsel and the respondent shall exchange a list of the evidence and witnesses that will be used at the hearing. A party may not present evidence it obtains after the date the exchange was required pursuant to this subsection unless it demonstrates to the Board that the evidence or witness was not available upon diligent investigation before the date the exchange was required and that the evidence or witness was given or communicated to the other party immediately after it was obtained.

14. The Board may join two or more formal complaints into one formal complaint if:

(a) The causes of action of each formal complaint are against the same person and deal with substantially the same or similar violations of statutes and regulations; and

(b) The joining of the formal complaints will serve the best interest of the Board, complainant and respondent.

15. A petition filed pursuant to NRS 642.500 will be processed pursuant to the provisions of this section.

16. As used in this section:

(a) "Legal counsel" means the legal counsel of the Board.

(b) "Licensee" means a person licensed by the Board or holding a permit issued pursuant to the provisions of chapter 451, 452 or 642 of NRS.

(c) "Staff" means the staff of the Board.

(Added to NAC by Funeral Bd. by R043-02, eff. 11-26-2003)

NAC 642.200 Hearings: Location; conduct of participants; filing and service of briefs; continuance. (NRS 642.060, 642.063)

1. All hearings conducted by the Board pursuant to NRS 642.140 or 642.500 will be held at a place in the State designated by the Board in the notice of the hearing.
2. All persons who attend a hearing shall conduct themselves in a respectful manner.
3. The Board may require each party to file a brief accompanied by proof of service of the brief to the opposing party.
4. Before or during a hearing, the Board may grant a continuance of a hearing, upon proper showing, to allow submission of additional evidence concerning any relevant matter.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)

NAC 642.220 Failure to appear at hearing; application to reopen proceedings after failure to appear. (NRS 642.060, 642.063)

1. If a person against whom a charge or petition was filed does not appear at a hearing and a continuance has not been approved by the Board, the Board may hear the testimony of witnesses present at the hearing and consider and dispose of the charge or petition on the basis of the evidence before it.
2. If a person does not appear at a hearing because of illness, involvement in an accident, or for other reasonable cause, he may within 15 days after the date of the hearing apply to the Secretary of the Board to reopen the proceedings. If the Board determines that the reason for the absence was sufficient and reasonable, it will immediately set a time and place for a hearing and give the person notice of the hearing.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)

NAC 642.225 Oath or affirmation required for testimony. (NRS 642.060, 642.063)
All testimony considered by the Board at a hearing, except facts which have been noticed by the Board or entered into the record by stipulation of the parties, must be sworn testimony. Each witness shall declare, by oath or affirmation, that he will testify truthfully.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)

NAC 642.230 Preliminary procedure. (NRS 642.060, 642.063) The member of the Board who is presiding at a hearing will call the hearing to order, take the appearances of the parties and act upon any pending motions or petitions. The parties may then make opening statements.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)

NAC 642.235 Order of presentation: Generally. (NRS 642.060, 642.063)

1. Evidence at a hearing will ordinarily be received from the parties in the following order:
 - (a) The Board or person who filed the charge or petition.
 - (b) Members of the staff of the Board, if different from the petitioner.
 - (c) The respondent.
 - (d) Rebuttal by the person who filed the charge or petition.
 - (e) If permitted by the Board, closing statements.
2. The Board may modify the order in which evidence is received.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)

NAC 642.240 Order of presentation: Consolidated hearing. (NRS 642.060, 642.063) The member of the Board presiding over a consolidated hearing will determine the order of evidence for the hearing.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95; A by Funeral Bd. by R043-02, 11-26-2003)

NAC 642.245 Stipulations. (NRS 642.060, 642.063) The Board may allow the parties to stipulate to any fact at issue in the hearing, either by written stipulation introduced in evidence as an exhibit or by an oral agreement stipulated in the record. A stipulation is binding upon all parties who stipulated to the fact and will be treated as evidence at the hearing, except that the Board may require evidence of the facts stipulated to by the parties.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)

NAC 642.250 Official notice by Board. (NRS 642.060, 642.063) In addition to the facts which may be noticed pursuant to NRS 233B.123, the Board may take notice of any regulations, official reports, decisions, orders, standards or records of the Board, any agency of the State or any court.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)

NAC 642.255 Decision or order by Board; service of decision or order; record of hearing. (NRS 642.060, 642.063)

1. A charge or petition stands submitted for a decision by the Board after the hearing is complete.

2. Except as otherwise provided by specific statute, a decision or order will be rendered by the Board within 90 days after completion of the hearing.

3. The Board will serve a decision or order on the parties or their representatives by sending a copy by certified mail or by personal service. Additional copies of the decision or order may be obtained upon written request to the Board.

4. A person may obtain a copy of the record of the hearing from the Board.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)

NAC 642.260 Rehearing. (NRS 642.060, 642.063)

1. Within 15 days after the Board renders a decision or order, the aggrieved party may apply for a rehearing by filing a written petition which sets forth the grounds for a rehearing. While the petition for a rehearing is pending, the aggrieved party shall comply with the decision or order of the Board, except upon order of the Board.

2. The Board will make a decision on a petition for a rehearing within 30 days after the effective date of the order or decision upon which the rehearing is requested. If the Board does not make a decision on the petition for a rehearing within 30 days, the petition shall be deemed denied.

3. The Board may order a rehearing on its own motion within 30 days after it renders a decision if it discovers that a mistake, fraud or misconception of fact existed when it rendered the original decision or order.

4. The Board will conduct a rehearing in accordance with the procedure for hearings.

(Added to NAC by Bd. of Funeral Dir., Embalmers, Cemeteries & Crematories, eff. 11-1-95)

MISCELLANEOUS PROVISIONS

NAC 642.300 Apprentice embalmers: "Full-time employees" interpreted. (NRS 642.063, 642.180) The Board interprets the term "full-time employees," as used in NRS 642.180, to mean employees who work not less than 32 hours a week.

(Added to NAC by Funeral Bd. by R021-04, eff. 10-31-2005)

NAC 642.XXX Recusal of Board Members.

1. In addition to any requirements for recusal set forth in NRS 281, a Board member shall recuse himself or herself from Board proceedings which involve situations in which the board member:

(a) Has a conflict of interest;

(b) Cannot participate fairly and impartially; or

(c) Has been involved in any part of any investigation proceedings being voted upon.

2. A Board member must disclose the reason for recusal prior to the Board's discussion of the matter, and may not vote or participate in the discussion upon recusal.

NAC 642.XXX Inspections

1. After any inspection conducted in accordance with NRS 642.067 or NRS 642.435 of any establishment, facility, crematory, or cemetery, the Board shall:

a) Send notice within 30 days of any violations needing correction;

b) Allow a 30 day period from receipt of the notice for the licensee to correct violations; and

c) Verify compliance in any future inspections as determined by the Board inspector.

2. Based on any acts or violations found during an inspection, or any violations not corrected within 30 days, the Board may initiate disciplinary proceedings pursuant to NRS 642.130, NRS 642.470, and NAC 642.180.

NAC 642.XXX "Good moral character" interpreted:

The Board interprets the term, "good moral character" for issuance of any license, permit or certificate pursuant to Chapters 642, 451, and 452 of Nevada Revised Statutes to mean the individual:

(a) Has never been convicted of a category A or B felony by a court of competent jurisdiction;

(b) Has not, within five years of application for licensure or registration, been convicted of a category C, D, or E felony

(c) Has not, within five years of application for licensure or registration, been convicted of a misdemeanor if the offense has a reasonable relationship to the person's proposed area of licensure or registration.

(d) Has not, within five years of application for licensure or registration, committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence if the act has a reasonable relationship to the person's proposed area of licensure or registration.

(e) Is not currently incarcerated or on community supervision after a period of imprisonment in a local, state or federal penal institution or on criminal probation.

(f) Has not engaged in fraud or misrepresentation in connection with an application for licensure or registration under this chapter or an examination required for licensure or registration.

- (g) Has not, within five years of application for licensure or registration, had a license, registration or endorsement revoked or suspended by the Board or by the funeral services licensing authority of any other jurisdiction.*
- (h) Has not surrendered a license, registration or endorsement to the Board or the funeral licensing authority of any other jurisdiction in lieu of disciplinary action.*
- (i) Has not practiced funeral directing or embalming without a license in this state or any other jurisdiction that requires licensure to perform these activities.*

NAC 642.XXX Statement of funeral goods and services

1. The Statement of Funeral Goods and Services required pursuant to Title 16 of the Code of Federal Regulations must:

- (a) Be signed by the licensee making the arrangements and include the arranger, funeral director, or embalmer license number of the individual who made the arrangement.*

NAC 642.XXX Disclosures

A funeral establishment or direct cremation facility must disclose, in writing, the location where the deceased will be stored, embalmed and/or cremated if the location is not the funeral establishment or direct cremation facility premises where the goods and services were sold.

NAC.XXX Licensee Name and Location Changes

- 1. Any individual or business holding a license, permit, or certificate issued by the Board shall submit an application on a form prescribed by the board to issue a new license, permit, or certificate for any name change, and pay any applicable fees.*
- 2. Any funeral establishment, direct cremation facility, or crematory changing location shall:*
 - (a) Notify the Board at least 30 days prior to changing location;*
 - (b) Submit an application of a form prescribed by the Board to change the location;*
 - (c) Pass an inspection of the new location prior to operating at the new location and;*
 - (d) Pay any applicable fees.*

NAC642.XXX Crematory Operation Course Approval

1. The Board may approve crematory certification programs pursuant to NRS 451.635 if the course meets the following minimum standards:

- a) At least 6 hours in length*
- b) Offered on a national level by experts in the field*
- c) Covers at a minimum, best practices, terminology, principles of combustion, basics of equipment operation, and forms and record control*

2. Any course approval issued by the Board pursuant to this section shall be valid for a period of 5 years.

NAC 642.XXX “Continuing education” means a workshop, seminar, lecture, conference, class, Board meeting, or instruction relevant to the funeral industry.

NAC 642.XXX “Hour of continuing education” means 50 minutes of participation in continuing education.

NAC 642.XXX Continuing Education

- 1. Continuing education hours required pursuant to NRS 642.XXX do not need to be submitted to the Board for approval and are automatically approved if the hours are:*
 - (a) Approved by the Academy of Funeral Service Practitioners*
 - (b) Sponsored by national service organizations or associations*
 - (c) Sponsored by State associations*
 - (d) Provided by suppliers; or*
 - (e) Offered by a continuing education provider approved by the Board*
- 2. Any continuing education not meeting the requirements set forth in NAC 642.XXX 1(a) through 1(e), shall be submitted to the Board for approval on a form prescribed by the Board and contain the following information:*
 - (a) An outline of the course*
 - (b) Qualifications of all presenters*
 - (c) Agenda detailing dates and times of all segments of the course*
- 3. Continuing education hours may be obtained for completion of a crematory operator certification program approved by the Board pursuant to NRS 451.635 and NAC 642.XXX*
- 4. Up to 4 hours of continuing education per renewal cycle may be obtained by physically attending any Funeral and Cemetery Services Board meetings provided that:*
 - (a) The Executive Director or member of the Board has provided signed documentation of attendance at the conclusion of the meeting.*
- 5. Pursuant to NRS 642.XXX, proof of completion of continuing education shall be maintained for a period of 5 years.*
- 6. The Board shall audit a percentage of licensees every renewal cycle by requiring the licensee to submit verification of the required continuing education hours prior to license renewal.*
- 7. If the licensee is unable to provide proof of continuing education pursuant to NAC 642.XXX, the Board may proceed with disciplinary action pursuant to NRS 642.130 or NRS 642.470.*
- 8. The Board may waive the continuing education requirements for any active duty military personnel upon request.*
- 9. Any licensee who is currently on inactive status shall be exempt from the continuing education requirements while the license is inactive and must only provide proof of 12 continuing education hours within the last two years prior to reactivation of a license pursuant to NRS 642.115 or NRS 642.455*

NAC 642.XXX Embalming Reports

- 1. Within 24 hours after the embalming procedure, an embalming case report shall be prepared describing the elapsed time since death, condition of the remains before and after embalming, and embalming procedures used.*
- 2. The embalming report must be signed by the Embalmer or Apprentice Embalmer who performed the embalming procedures.*

NAC 642.XXX Dignity of Human Remains

- 1. Any location issued a license or permit by the Board shall ensure that all human remains are treated with dignity and respect at all times.*
- 2. Diligent effort shall be made to maintain the privacy of the human remains.*

3. *While refrigerated and/or after embalming procedures have been completed, human remains shall either be clothed or completely covered.*
4. *At no time shall human remains be stored directly on the floor of any room used to store human remains, including but not limited to any refrigeration units.*
5. *Human remains shall be stored and transported face up at all times.*
6. *Human remains shall not be piled one on top of another for storage or transportation.*
7. *Any location where human remains are stored shall be maintained in a sanitary and professional manner.*

NAC 642.XXX Funeral Arranging

The practice of funeral arranging shall be construed to consist of the following functions, which may be performed only by a licensed funeral arranger, licensed funeral director, or licensed embalmer:

- (a) Selling or offering to sell funeral services, embalming, cremation, or other services relating to the final disposition of human remains on an at-need basis.*
- (b) Planning or arranging the details of funeral services, embalming, cremation, or other services relating to the final disposition of human remains, with the parties authorized to order the disposition of the decedent's remains.*
- (c) Making, negotiating, or completing the financial arrangements for funeral services, embalming, cremation, or other services relating to the final disposition of human remains, on an at-need basis.*

NAC 642.XXX Funeral Directing

1. The practice of funeral directing shall be construed to consist of the following functions, which may be performed only by a licensed funeral director:

- (a) Managing of a funeral establishment or direct cremation facility pursuant to NRS 642.345 except for administrative matters such as budgeting, accounting and personnel, and routine clerical and recordkeeping functions.*
- (b) Preparing, signing and filing of death certificates, burial permits, and other documents pursuant to NRS 440*
- (c) Ensuring all statutes and regulations are followed for transport of a body into or out of the State*

2. The practice of funeral directing shall NOT be construed to consist of the following:

- (a) Removing or transporting human remains from the place of death, or removing or transporting human remains from or to a funeral establishment, cemetery, crematory, medical examiner's office, common carrier, or other locations as authorized and provided by law.*

NAC 642.XXX Embalming

1. The practice of embalming shall be construed to consist of the following functions, which may be performed only by a licensed embalmer or apprentice embalmer under the direct supervision of a licensed embalmer:

- (a) Application or injection of any disinfecting or preservation solutions upon or into a dead human body*
- (b) Aspiration of any fluids from a dead human body*
- (c) Setting features*

- (d) *Suturing of a dead human body*
- (e) *Completing any post-autopsy or post-accident restoration*
- (f) *Removal of any device or prosthetic implanted in the dead human body*
- (g) *Preparation for transport of bodies out of the state*
- 2. *Nothing in this section restricts the authority of a coroner or medical examiner when human remains are under his or her jurisdiction.*

NAC 642.XXX Direct Cremation Facilities

1. Every direct cremation facility in this state shall require the person or persons arranging for a direct cremation, sign a disclosure prior to the time of direct cremation, which states, in addition to any other disclosure required by any statute or regulations that:

(a) The direct cremation facility cannot provide in any rites or ceremonies in connection with the final disposition of the remains;

(b) The direct cremation facility cannot provide facilities for rites or ceremonies in connection with the final disposition of the remains;

(c) The direct cremation facility cannot provide embalming

(d) The direct cremation facility cannot provide any burial services

(e) There can be no viewing of the body except at a licensed funeral establishment for the purpose of identification;

2. A direct cremation facility shall not be listed in any advertisement or newspaper notice which may give the impression to the public that the direct cremation facility is, in any way, engaged in the practice of funeral service.

3. No direct cremation facility shall allow or cause his or her name or the name of the direct cremation facility to be used in any obituary or death notice in which a ceremony or rite for the deceased is announced, unless such obituary or death notice makes it specifically clear that the direct cremation facility is not connected in any way to the ceremony or rite.

NAC 451.XXX Maintenance of Records

1) Pursuant to NRS 451.665, records shall be maintained for a period of at least 7 years.

2) Digital formats of records shall satisfy the requirements of section 1 of NAC 642.XXX.

NAC 642.XXX Access to Licensed Embalmer

1) Every funeral establishment must have access to a licensed embalmer either through employment or contract and shall furnish proof of such upon any inspection.

CHAPTER 451 - DEAD BODIES

PRESERVATION

451.010 Embalming.

451.020 Severability.

CREMATION

451.050 Written authorization: Allowance of person to witness cremation; allowance of simultaneous cremation of remains of two or more persons.

TRANSPORTATION

451.100 Transportation by common carrier, agencies or other persons.

451.110	Bodies subject to trauma or disinterred more than 30 days after burial.
451.120	Transportation by funeral directors or embalmers.
451.130	Burial-transit permits.
451.140	Responsibility of Health Division.

PRESERVATION

NAC 451.010 Embalming. (NRS 439.200)

1. At the direction of a physician, licensed to practice medicine in Nevada, who was last in attendance on a person known or suspected to have died of a communicable disease, or of any coroner or health officer who has knowledge or suspects that a person has died of a communicable disease in his jurisdiction, the ~~funeral director~~ *embalmer* shall embalm the dead body as soon as possible.

2. In a case where an autopsy or other medical examination is required, embalming must not be performed until authorized by the physician, coroner or health officer having jurisdiction over the body.

3. A dead human body shall be embalmed or refrigerated at a temperature of not more than 45 degrees Fahrenheit within 24 hours of receiving remains.

4. Funeral directors, embalmers, and others assisting in the preparation of human remains for final disposition may delay refrigeration or remove human remains from refrigeration for the following activities:

(a) Embalming;

(b) Transporting;

(c) Cremating or burying;

(d) Viewing for identification for a period of time not to exceed one hour by a person able to identify the deceased;

(e) Washing, anointing, clothing, praying over, viewing, or otherwise accompanying the deceased for a period of time not to exceed twenty-four hours by persons acting according to the directions of the deceased or the person having the right to control the disposition of the remains; or

(f) As otherwise approved by the local health officer after evaluating specific circumstances, the need to protect public health, and recognition of religious beliefs.

5. A funeral director, embalmer, or other person assisting in the preparation of human remains for final disposition must prohibit activities otherwise allowed under subsection (4)(d) or 4(e) of this section if informed by a local health officer or medical examiner that such activities would pose a direct threat to human health.

6. Nothing in this section restricts the authority of a coroner or medical examiner when human remains are under his or her jurisdiction.

~~*3. If a dead body has not been disposed of or otherwise preserved within 18 hours after the time of death, the facility must, in the interest of public health, take such steps as may be reasonably necessary to preserve the dead body or may store the dead body in a sealed container.*~~

[Bd. of Health, Disposition of Dead Bodies Reg. Art. I, eff. 4-21-78]

NAC 451.020 Severability. (NRS 439.200) If any provision of NAC 451.010 is declared unconstitutional or invalid for any reason, the remainder of its provisions are not affected thereby.

[Bd. of Health, Disposition of Dead Bodies Reg. Art. II, eff. 4-21-78]

CREMATION

NAC 451.050 Written authorization: Allowance of person to witness cremation; allowance of simultaneous cremation of remains of two or more persons. (NRS 451.640, 451.685, 642.063)

1. Before an operator of a crematory allows:

(a) A person to witness a cremation, the operator shall obtain, on a form provided by the crematory, written authorization from a person authorized pursuant to NRS 451.650 to order the cremation of human remains.

(b) The remains of two or more persons to be simultaneously cremated in the same chamber, the operator shall obtain, on a form provided by the crematory, written authorization from the agent of each person whose remains are to be simultaneously cremated.

2. A form required pursuant to subsection 1 must:

(a) Be written in language that is easily understood;

(b) Include a clear explanation of the purpose of the form; and

(c) Be maintained by an operator of a crematory for 1 year after the cremation of the remains of a person.

3. Any failure by the operator of a crematory to maintain the written documentation required by paragraph (c) of subsection 2 is a violation of this chapter.

(Added to NAC by Funeral Bd. by R043-02, 11-26-2003)

TRANSPORTATION

NAC 451.100 Transportation by common carrier, agencies or other persons. (NRS 439.200)

1. The bodies of persons who have died from any cause must not be received for transportation by a common carrier or transported by agencies or other persons authorized to carry human bodies unless the body has been ~~embalmed and~~ prepared *in a manner suitable for their type of transportation and distance of travel* by an embalmer licensed under the laws of Nevada

2. The bodies of persons who have died from any cause must not be received *by a common carrier or forwarded* for transportation by a common carrier unless the body is ~~placed in a sound casket and~~ enclosed in a *heat-sealed, fully hermetic body bag* ~~transportation case~~ adequate to prevent the seepage of fluids and the escape of offensive odors.

[Bd. of Health, Transportation of Dead Bodies Reg. § 1, eff. 3-15-66]

NAC 451.110 Bodies subject to trauma or disinterred more than 30 days after burial. (NRS 439.200) The body of a person, or the remains of the body of a person, whose death was caused by a severe trauma, or the remains of a human dead body in which decomposition has occurred and in which either the effects of the trauma or decomposition prohibit normal embalming and preparation procedures or a body disinterred more than 30 days after burial may be transported only:

1. In a sealed casket enclosed in a transportation case;

2. In a sound casket with a sealed inner liner enclosed in a transportation case; or
3. In a sound casket encased in a sealed transportation case.

[Bd. of Health, Transportation of Dead Bodies Reg. § 2, eff. 3-15-66]

NAC 451.120 Transportation by funeral directors or embalmers. (NRS 439.200) Nothing in NAC 451.100 to 451.140, inclusive, prohibits or limits in any respect the transportation of dead human bodies within Nevada by licensed funeral directors or embalmers in properly licensed motor vehicles or aircraft owned, operated, chartered or leased by licensed funeral directors or mortuaries, nor prohibits the transportation of ~~embalmed~~ bodies within Nevada by relatives or other authorized persons.

[Bd. of Health, Transportation of Dead Bodies Reg. § 4, eff. 3-15-66]

NAC 451.130 Burial-transit permits. (NRS 439.200)

1. When bodies are shipped by common carrier or transported by an agency or by any other person authorized to carry human bodies, a burial-transit permit must be made out in duplicate.

2. One copy of the burial-transit permit must accompany the body. The duplicate copy of the permit must be attached to and accompany the waybill covering the remains, and be delivered with the body at the point of destination to the person to whom it is consigned.

[Bd. of Health, Transportation of Dead Bodies Reg. § 3, eff. 3-15-66]

NAC 451.140 Responsibility of Health Division. (NRS 439.200) Nothing in NAC 451.100 to 451.140, inclusive, makes the Health Division of the Department of Health and Human Services responsible for any financial obligations incurred by the fulfillment of those sections, except as provided by law.

[Bd. of Health, Transportation of Dead Bodies Reg. § 5, eff. 3-15-66]

NAC 451.XXX Identity of Deceased Awaiting Cremation

- 1. All bodies awaiting cremation must be properly identified at all times.***
- 2. Identity of the deceased must be maintained throughout the entire cremation process.***
- 3. The identifying document or label required for the urn pursuant to NRS 451.680 must be affixed to the urn in a secure manner.***