NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption
of Regulations of the
Funeral and Cemetery Services Board

The Funeral and Cemetery Services Board will hold a public hearing at 9:00 a.m., on September 20, 2016, at Legislative Counsel Bureau Building, 401 South Carson Street, Room 3138, Carson City, Nevada, and video-conferenced to Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapters 451 and 642 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **The need for and the purpose of the proposed regulation or amendment.**

This regulation is necessary to update the regulations to comply with recent statutory changes pursuant to SB286.

2. **Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.**

The regulation sets forth certain duties and procedures concerning cremation and funeral services; establishes procedures for the Funeral and Cemetery Services Board to issue a notice of violation to licensees, permittees, and holders of a certificate; sets forth changes to procedures for renewal of licenses, permits and certificates issued by the Board, and approval of continuing education required for funeral directors and embalmers; and providing other matters properly relating thereto.

3. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**
    a. **Both adverse and beneficial effects;**
        i. **Adverse effects:**
        Potential adverse effects indicate that there could be increased costs by requiring licensed or trained individuals to conduct certain activities. This may require locations to seek licensure or training for current staff.
        ii. **Beneficial effects:**
        Funeral industry locations which already have licensed staff performing these duties would benefit from others in the industry meeting the same standards. The public has the benefit of trained and licensed individuals.

    b. **Both immediate and long-term effects.**
        i. **Immediate effects**
        Locations may need to immediately seek licensure or training for additional staff.
        ii. **Long-term effects**
        No long-term effects have been determined.

4. **A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.**

The Board sent out small business impact surveys, and make changes to the initial regulations based on comments given at the public workshops and submitted surveys.

5. **The estimated cost to the agency for enforcement of the proposed regulation.**

None.

6. **A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.**

None.

7. **If the regulation is required pursuant to federal law, a citation and description of the federal law.**

None.

8. If the regulation includes provisions which are more stringent than a federal regulation thatregulates the same activity, a summary of such provisions.

None.

9. Whether the proposed regulation establishes a new fee or increases an existing fee.

No new fees are being proposed. All fees are established in statute.

Persons wishing to comment upon the proposed action of The Funeral and Cemetery Services Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Funeral and Cemetery Services Board, 3740 Lakeside Drive, Suite 201, Reno, Nevada. Written submissions must be received on or before August 26, 2016. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Funeral and Cemetery Services Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Funeral and Cemetery Services Board Office and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at http://www.leg.state.nv.us. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Name	Address	City	State	Zip
Battle Mountain Branch Library	625 Broad Street	Battle Mountain	NV	89820
Carson City Library	900 North Roop Street	Carson City	NV	89701
Clark County Library	1401 E. Flamingo Road	Las Vegas	NV	89119
Churchill County Library	553 South Maine Street	Fallon	NV	89406
Douglas County Library	1625 Library Lane	Minden	NV	89423
Elko County Library	720 Court Street	Elko	NV	89801
Eureka Branch Library	210 South Monroe	Eureka	NV	89316
Goldfield Public Library	Fourth & Crook Street	Goldfield	NV	89013
Green Valley Library	2797 N. Green Valley Parkway	Henderson	NV	89015
Humboldt County Library	85 East 5th Street	Winnemucca	NV	89445
Lincoln County Library	63 Main Street	Pioche	NV	89043
Lyon County Library	20 Nevin Way	Yerington	NV	89447
Pershing County Library	1125 Central Avenue	Lovelock	NV	89419
Storey County Library	175 Carson Street	Virginia City	NV	89440
Summerlin Library	1771 Inner Circle Drive	Las Vegas	NV	89134
Washoe County Library	30 I South Center Street	Reno	NV	89501
White Pine County Library	950 Campton Street	Ely	NV	89301
Nevada State Library	100 Stewart Street	Carson City	NV	89701
Legislative Building	401 South Carson Street	Carson City	NV	89701
Grant Sawyer Building	555 E. Washington Ave.	Las Vegas	NV	89701

SECOND REVISED PROPOSED REGULATION OF THE

NEVADA FUNERAL AND CEMETERY SERVICES BOARD

LCB File No. R067-15

June 9, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-13, NRS 451.640, 452.026 and 642.063; §§14-30 and 32-46, NRS 642.063; §31, NRS 642.063, 642.115 and 642.455, as amended by section 41 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1961.

A REGULATION relating to decedents; setting forth certain duties and procedures concerning cremation services; establishing the procedure for the Nevada Funeral and Cemetery Services Board to issue a notice of violation to licensees, permittees and holders of a certificate; setting forth procedures concerning changes affecting and the renewal of licenses, permits and certificates issued by the Board and the approval by the Board of continuing education required for funeral directors and embalmers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Nevada Funeral and Cemetery Services Board and grants the Board authority to issue licenses, permits and certifications to cemeteries, crematories, funeral establishments, direct cremation facilities, funeral directors, funeral arrangers and embalmers. (Chapters 451, 452 and 642 of NRS, as amended by Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1948) Existing law also authorizes the Board to adopt regulations to carry out certain provisions relating to funeral directors, funeral arrangers, embalmers and operators of cemeteries and crematories. (NRS 451.640, 452.026, 642.063)

Section 9 of this regulation provides that the Board will interpret the phrase "cremation of human remains" to include, with certain exceptions, the container in which the human remains are placed for cremation, the personal effects of the deceased person and a negligible amount of chlorinated plastic.

Section 10 of this regulation sets forth the actions that the Board will interpret as falling within the phrase "physically operating the crematory equipment" for the purpose of requiring a person to complete a crematory certification program.

Section 11 of this regulation sets forth the duties of an operator of a crematory, funeral establishment or direct cremation facility with regard to the identity of human remains.

Sections 12, 13, 19, 21, 25, 27, 29, 35, 37, 39, 40, 43 and 44 of this regulation incorporate the newly authorized permits for the operation of direct cremation facilities and licenses to engage in business as a funeral arranger in regulations.

Sections 15, 16 and 31 of this regulation set forth the procedures for obtaining approval of the continuing education required for funeral directors and embalmers. **Section 17** of this regulation sets forth the criteria the Board will use in determining whether an applicant is of good moral character for the purpose of the issuance by the Board of a license, permit or certificate to a cemetery, crematory, funeral establishment, direct cremation facility, funeral director, funeral arranger or embalmer.

Section 19 of this regulation sets forth the requirements for a funeral director to obtain approval by the Board to manage a funeral establishment or direct cremation facility.

Section 20 of this regulation provides that, after 2 years, the Board will consider an application for the issuance by the Board of a license, permit or certificate to a cemetery, crematory, funeral establishment, direct cremation facility, funeral director, funeral arranger or embalmer to be withdrawn if the Board has not received the information and fees required to complete the application.

Section 24 of this regulation sets forth the circumstances in which a member of the Board is required to recuse himself or herself from proceedings of the Board.

Section 25 of this regulation establishes the procedure that the Board will follow regarding the issuance of a notice of violation to the operator of a funeral establishment, direct cremation facility, crematory or cemetery.

Section 26 of this regulation sets forth additional requirements concerning a statement of funeral goods and services selected that is required to be provided by a funeral provider pursuant to federal law.

Sections 28 and 29 of this regulation set forth procedures relating to changing the name of the holder of a license, permit or certificate issued by the Board or the location of the place of business of a funeral establishment, direct cremation facility or crematory.

Section 30 of this regulation sets forth the requirements for approval by the Board of a crematory certification program which is required for persons who physically operate crematory equipment. **Section 30** also provides that such persons are not required to complete a crematory certification program more than once.

Section 38 of this regulation requires every funeral establishment to employ, or retain on a contract basis, a licensed embalmer.

Existing law requires a license, permit or certificate renewed by the Board pursuant to chapter 451, 452 or 642 of NRS to be renewed on a biennial basis on January 1 of each even-numbered year. (NRS 642.069, as amended by section 20.5 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1954) Existing law also provides that the renewal fee for a: (1) license to practice the profession of embalming; (2) license as a funeral director; (3) license as a

funeral arranger; (4) permit to operate a funeral establishment; and (5) a permit to operate a direct cremation facility is due on January 1 of each even-numbered year. Existing law further provides that if the renewal fee for such a license or permit is not paid by February 1 of that even-numbered year, a fee for the late renewal will be added to the renewal fee of the license or permit. (NRS 642.120, as amended by section 23.5 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1956; NRS 642.430, as amended by section 38 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1960; NRS 642.435, as amended by section 39 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1960) **Sections 41 and 42** of this regulation similarly require a holder of a license to operate a crematory and a holder of a certificate of authority to operate a cemetery to pay a late fee in addition to the renewal fee if he or she does not pay the renewal fee for the license or certificate of authority, as applicable, before February 1 of an even-numbered year.

Section 43 of this regulation revises the restrictions on the transportation of dead human bodies.

Section 1. Chapter 451 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.***

Sec. 3. ***"Cremation" has the meaning ascribed to it in NRS 642.011.***

Sec. 4. ***"Crematory" has the meaning ascribed to it in NRS 642.012.***

Sec. 5. ***"Direct cremation facility" has the meaning ascribed to it in section 3 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1950 (NRS 642.0135).***

Sec. 6. ***"Embalmer" means a person who is licensed as an embalmer pursuant to chapter 642 of NRS.***

Sec. 7. ***"Funeral director" has the meaning ascribed to it in NRS 642.015, as amended by section 12 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1951.***

Sec. 8. *"Funeral establishment" has the meaning ascribed to it in NRS 642.016, as amended by section 13 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1951.*

Sec. 9. *1. For the purposes of NRS 451.680, the Nevada Funeral and Cemetery Services Board interprets the phrase "cremation of human remains" to include:*

(a) The container, unless incinerating the container is prohibited pursuant to subsection 3 of NRS 451.670;

(b) The personal effects of the deceased person; and

(c) A negligible amount of chlorinated plastic which may be attached to or accompanying the human remains.

2. As used in this section:

(a) "Container" has the meaning ascribed to it in NRS 451.615; and

(b) "Human remains" has the meaning ascribed it in NRS 451.620.

Sec. 10. *For the purposes of NRS 451.635, as amended by section 55 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1968, the Nevada Funeral and Cemetery Services Board interprets the phrase "physically operating the crematory equipment" to mean:*

1. Starting the crematory equipment;

2. Loading the chamber;

3. Sweeping the chamber; and

4. Processing human remains, including the initial placement of the human remains into temporary urns.

Sec. 11. *The operator of a crematory, funeral establishment or direct cremation facility shall ensure that:*

1. Any human remains awaiting cremation are properly identified at all times.

2. The identity of the human remains is maintained throughout the entire cremation process.

3. The identifying document or label for the urn referred to in NRS 451.680 is affixed to the urn in a secure manner.

Sec. 12. *1. The records required to be kept pursuant to NRS 451.665, as amended by section 58 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1970, by the operator of a crematory, funeral establishment or direct cremation facility must be maintained for at least 7 years.*

2. The maintenance of such records in a digital format satisfies the requirements of subsection 1.

Sec. 13. *1. Except as otherwise provided in this section and NAC 451.010, the operator of a crematory, funeral establishment or direct cremation facility shall ensure that each dead body of a human being is embalmed or refrigerated at a temperature of not more than 48 degrees Fahrenheit within 24 hours after the operator receives the human remains.*

2. Except as otherwise provided in subsection 3, a funeral director, embalmer or another person assisting in the preparation of human remains for final disposition may delay the refrigeration of or remove the human remains from refrigeration for identification viewing and for the following activities:

(a) Embalming the human remains;

(b) Transporting the human remains;

(c) Cremating or burying the human remains;

(d) Washing, anointing, clothing, praying over, viewing or otherwise accompanying the unembalmed human remains, for a period of time not to exceed 8 consecutive hours, by a person acting according to the directions of the decedent or a person having the right to control the disposition of the human remains of the deceased person; or

(e) Any other activity approved by the local health officer after evaluating the specific circumstances, the need to protect the public health and the recognition of religious beliefs.

3. A funeral director, embalmer or another person assisting in the preparation of human remains for final disposition shall not delay the refrigeration of or remove the human remains from refrigeration for identification viewing or an activity set forth in paragraph (d) of subsection 2 if he or she is informed by a local health officer or medical examiner that doing so would pose a direct threat to human health.

4. Nothing in this section restricts the authority of a coroner or medical examiner concerning human remains that are under the jurisdiction of the coroner or medical examiner.

5. As used in this section, "identification viewing" means the viewing of human remains for identification purposes, for a period of time not to exceed 1 hour, by a person who is potentially capable of identifying the human remains.

Sec. 14. Chapter 642 of NAC is hereby amended by adding thereto the provisions set forth as sections 15 to 38, inclusive, of this regulation.

Sec. 15. *"Continuing education" means educational experiences in the form of a workshop, seminar, lecture, conference, class, meeting of the Board or other course of instruction related to the funeral industry.*

Sec. 16. *"Hour of continuing education" means 50 minutes of participation in continuing education.*

Sec. 17. *1. In determining whether an applicant is of good moral character for the purpose of the issuance of a license, permit or certificate pursuant to chapter 451, 452 or 642 of NRS, the Board will establish an initial assessment that the person is of good moral character if the person:*

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

(b) Has not, within the 7 years immediately preceding the date of application for the issuance of the license, permit or certificate, been convicted in a court of competent jurisdiction of a gross misdemeanor or category C, D or E felony;

(c) Has not, within the 7 years immediately preceding the date of application for the issuance of the license, permit or certificate, been convicted in a court of competent jurisdiction of a misdemeanor that has a reasonable relationship to the person's license, permit or certificate;

(d) Is not currently incarcerated or on parole or probation after a period of imprisonment in a local, state or federal penal institution;

(e) Has not engaged in fraud or misrepresentation in connection with an application for issuance of a license, permit or certificate issued pursuant to chapter 451, 452 or 642 of NRS or an examination required for issuance of the license, permit or certificate;

(f) Has not, within the 7 years immediately preceding the date of application for the issuance of the license, permit or certificate, had a license, permit or certificate revoked by the Board or by the funeral services licensing authority of any other jurisdiction;

(g) Does not currently hold a suspended license, permit or certificate or has not, within the 2 years immediately preceding the date of application for the issuance of the license, permit or certificate, had a license, permit or certificate suspended by the Board or by the funeral services licensing authority of any other jurisdiction, unless the suspension is pending final adjudication;

(h) Has not, within the 7 years immediately preceding the date of application for the issuance of the license, permit or certificate, surrendered a license, permit or certificate to the Board or the funeral licensing authority of any other jurisdiction in lieu of disciplinary action; and

(i) Has not practiced funeral directing or embalming without a license in this State or any other jurisdiction that requires licensure to perform those activities.

2. After establishing an initial assessment regarding whether an applicant is of good moral character, the Board will consider any aggravating or mitigating factors to determine whether the applicant is of good moral character for the purpose of the issuance of a license, permit or certificate pursuant to chapter 451, 452 or 642 of NRS.

Sec. 18. *For the purposes of NRS 642.465, as amended by section 43 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1961, the Board interprets the term "manage" to not include the management of administrative matters, including, without limitation, issues relating to budgeting, accounting, personnel matters and routine clerical matters.*

Sec. 19. *1. Except as otherwise provided in subsection 4, the Board will not grant the approval required by NRS 642.345, as amended by section 31 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1958, for a funeral director to manage a funeral*

establishment or direct cremation facility unless the funeral director will be reasonably available at the funeral establishment or direct cremation facility during regular business hours. For the purposes of this subsection, a funeral director is presumed to be reasonably available at the funeral establishment or direct cremation facility if the funeral director resides not more than 120 miles from the premises of the funeral establishment or direct cremation facility.

2. Except as otherwise provided in subsection 4, the Board will not grant the approval required by NRS 642.345, as amended by section 31 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1958, for a funeral director to manage more than one funeral establishment or direct cremation facility unless the premises of each funeral establishment or direct cremation facility are located less than 120 miles apart.

3. The Board will not grant approval for a funeral director to manage more than a total of three places of business, including each funeral establishment and direct cremation facility managed by the funeral director.

4. The Board may grant an exception to the provisions of subsection 1 or 2 if the Board determines that such an exception is in the best interests of the public.

Sec. 20. *The Board will consider an application for the issuance of a license, permit or certificate pursuant to chapter 451, 452 or 642 of NRS to be withdrawn if the Board has not received the information and fees required to complete the application within 2 years after the date on which the application is first submitted to the Board.*

Sec. 21. *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 an even-numbered year.*

Sec. 22. *If a funeral arranger, funeral director or embalmer has for any reason allowed his or her license as a funeral arranger, funeral director or embalmer, respectively, to lapse:*

1. For a period of not more than 3 years, the Board may reinstate the license:

(a) Of a funeral director as provided in NRS 642.440.

(b) Of a funeral arranger or embalmer in the same manner as provided for a funeral director in NRS 642.440.

2. For a period of more than 3 years, the funeral arranger, funeral director or embalmer must reapply for a license as a new applicant unless the license of the funeral arranger, funeral director or embalmer has been placed on inactive status.

Sec. 23. *1. A person who holds a certificate of registration as a registered apprentice and does not successfully pass the examination for a license to practice the profession of embalming within a period of 2 consecutive years as required by NRS 642.300 must wait at least 1 year after the expiration of that period before reapplying for a new certificate of registration as a registered apprentice pursuant to NRS 642.190.*

2. The Board will not give a person any credit toward the 1 year of apprenticeship required for a license to practice the profession of embalming for any time spent on the initial apprenticeship described in subsection 1.

Sec. 24. *1. In addition to any requirements for recusal set forth in chapter 281 of NRS, a member of the Board must recuse himself or herself from proceedings of the Board involving a matter in which the member of the Board:*

(a) Has a conflict of interest;

(b) Is unable to participate in a fair and impartial manner; or

(c) Was active in any part of an investigation of the matter.

2. A member of the Board must disclose the reason for the recusal before the Board's discussion of the matter. Upon recusal, the member of the Board may not participate in the Board's discussion of the matter or vote on the matter.

Sec. 25. *1. If an inspection of a funeral establishment, direct cremation facility, crematory or cemetery conducted pursuant to NRS 642.067, as amended by section 19 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1954, NRS 642.435, as amended by section 39 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1960, or section 5 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1950 (NRS 642.368), reveals that the funeral establishment, direct cremation facility, crematory or cemetery is in violation of any provision of this chapter or chapter 451, 452 or 642 of NRS, the Board will issue a notice of violation to the licensee, permittee or holder of the certificate, as applicable. The notice of violation must:*

(a) Be in writing and describe with particularity the nature of the violation; and

(b) Indicate that the licensee, permittee or holder of the certificate is given a 30-day period after receipt of the notice to correct the violation.

2. An inspector of the Board will verify compliance by the licensee, permittee or holder of the certificate, as applicable, with the applicable provisions of this chapter or chapter 451, 452 or 642 of NRS in a subsequent inspection.

3. The Board may initiate disciplinary proceedings against the licensee, permittee or holder of the certificate, as applicable, pursuant to NRS 642.130, as amended by section 24 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1956, NRS 642.5175 or NAC 642.180 based on any acts or violations found during such an inspection or any

violations that the licensee, permittee or holder of the certificate failed to correct within the period set forth in the notice of violation.

Sec. 26. *The statement of funeral goods and services selected that is required to be provided by a funeral provider pursuant to 16 C.F.R. § 453.2(b)(5) must:*

1. Be signed by the licensed funeral arranger, funeral director or embalmer who made the arrangements for the funeral or other disposition of the human remains of the deceased person; and

2. Include the license number of the funeral arranger, funeral director or embalmer who made the arrangements.

Sec. 27. *1. A funeral establishment or direct cremation facility must make a reasonable effort to disclose, in writing, to a person who purchases at-need goods or services from the funeral establishment or direct cremation facility, the location at which the human remains of the deceased person will be stored, embalmed or cremated.*

2. As used in this section, "at-need" means at the time the goods or services are needed.

Sec. 28. *If the name of a holder of a license, permit or certificate issued by the Board pursuant to chapter 451, 452 or 642 of NRS is changed, the licensee, permittee or holder of the certificate must:*

1. Apply to the Board for a revised license, permit or certificate on a form prescribed by the Board; and

2. Pay the applicable fee prescribed in NRS 642.0696.

Sec. 29. *1. If the holder of a permit or license, as applicable, to operate a funeral establishment, direct cremation facility or crematory wishes to transfer his or her established place of business to another location, the holder of the permit or license must:*

(a) Notify the Board at least 30 days before changing the location of the funeral establishment, direct cremation facility or crematory;

(b) Apply to the Board on a form prescribed by the Board for a transfer of the permit or license to the new location; and

(c) Pay the applicable fee prescribed in NRS 642.0696.

2. The Board will cause the premises of the new location to be inspected within 30 days after the receipt of notification pursuant to subsection 1 and before approving the transfer of the permit or license to the new location and issuing a revised permit or license indicating that the funeral establishment, direct cremation facility or crematory is being operated at the new location.

3. The holder of the permit or license must not conduct business at the new location until he or she has been issued a revised permit or license by the Board indicating that the funeral establishment, direct cremation facility or crematory is being operated at the new location.

Sec. 30. *1. The Board will approve a crematory certification program as required pursuant to NRS 451.635, as amended by section 55 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1968, if the program:*

(a) Is at least 6 hours in length;

(b) Is offered on a national level by persons who are generally recognized as having expertise in the field of crematory services; and

(c) Includes, at a minimum, instruction in:

(1) Best practices relating to crematory services;

(2) Terminology relevant to crematory services;

(3) The principles of combustion;

(4) The operation of crematory equipment; and

(5) The filing of forms and other duties concerning keeping a record relating to crematory services.

2. The Board may approve a training program provided by a manufacturer of crematory equipment as a crematory certification program only if the training program satisfies the requirements of subsection 1.

3. If the Board approves a crematory certification program pursuant to this section, the approval is valid for 5 years.

4. A person who physically operates the crematory equipment in a crematory is not required to complete a crematory certification program approved by the Board pursuant to this section more than once.

Sec. 31. *1. The hours of continuing education completed to fulfill the requirement set forth in section 9 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1951 (NRS 642.416), do not need to be submitted to the Board for approval and are automatically approved if the continuing education is:*

(a) Approved by the Academy of Professional Funeral Service Practice;

(b) Sponsored by a national or state organization or association that administers training relating to the funeral industry; or

(c) Offered by a provider of continuing education who is approved by the Board.

2. Any continuing education that does not satisfy the requirements set forth in subsection 1 must be approved by the Board. Such approval may be obtained by applying to the Board on a form prescribed by the Board which includes, without limitation:

(a) An outline of the course;

(b) The qualifications of each presenter; and

(c) An agenda detailing the dates and times of each segment of the continuing education.

3. A licensee may obtain credit toward the required hours of continuing education by completing a crematory certification program approved by the Board pursuant to section 30 of this regulation.

4. A licensee may complete not more than 4 hours of continuing education per each period of renewal by attending, in person, a meeting of the Board if the Executive Director or a member of the Board provides the licensee at the conclusion of the meeting signed documentation of the licensee's attendance at that meeting.

5. Pursuant to section 9 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1951 (NRS 642.416), proof of completion of continuing education must be maintained by the licensee for 5 years.

6. The Board will audit a percentage of licensees during each period of renewal by requiring those licensees to submit proof of completion of the required hours of continuing education before the Board issues a renewal of the licenses of those licensees.

7. Any licensee whose license is placed on inactive status is exempt from the requirements of continuing education while the license is placed on inactive status. If such a licensee subsequently wishes to reactivate his or her license pursuant to NRS 642.115 or 642.455, as amended by section 41 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1961, the licensee must provide proof to the Board of completion of 12 hours of continuing education within the 2 years immediately preceding the date of application for reactivation of the license.

8. The Board may initiate disciplinary proceedings against a licensee pursuant to NRS 642.130, as amended by section 24 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1956, or NRS 642.5175, based on the failure of the licensee to provide, upon request, proof of completion of continuing education as required by section 9 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1951 (NRS 642.416).

Sec. 32. *1. A licensed embalmer or his or her registered apprentice shall prepare a report within 24 hours after embalming a deceased person's remains. The report must include, without limitation, the time period elapsed between the death of the deceased person and the embalming of the deceased person's remains, a description of the condition of the remains before and after embalming and the procedures used to embalm the remains.*

2. The report must be signed by the licensed embalmer or the registered apprentice who embalmed the deceased person's remains.

Sec. 33. *1. Each holder of a license, permit or certificate issued by the Board pursuant to chapter 451, 452 or 642 of NRS shall ensure that human remains are treated with dignity and respect at all times.*

2. Human remains must be clothed or completely covered while the human remains are being refrigerated and after the human remains have been embalmed.

3. Human remains must not be stored directly on the floor of any room used to store human remains. For the purposes of this subsection, "floor of any room" includes the floor of a room which is part of a refrigeration unit.

4. Human remains must be stored and transported face up at all times.

5. Human remains must not be placed on other human remains for the purpose of storage or transportation.

6. The premises of any location where human remains are stored must be maintained in a sanitary and professional manner.

Sec. 34. *1. The following functions may be performed only by a licensed funeral arranger, funeral director or embalmer:*

(a) Selling or offering to sell at-need funeral services, embalming, cremation or other services relating to the disposition of human remains of a deceased person on an at-need basis.

(b) Planning or arranging the details of at-need funeral services, embalming, cremation or other services relating to the disposition of human remains of a deceased person with families or other persons authorized pursuant to NRS 451.024, as amended by section 54 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1966, to order the disposition of the decedent's remains.

(c) Negotiating the financial arrangements for funeral services, embalming, cremation or other services relating to the disposition of human remains of a deceased person on an at-need basis.

2. As used in this section, "at-need" means at the time the goods or services are needed.

Sec. 35. *1. The managing of a funeral establishment or direct cremation facility as required pursuant to NRS 642.465, as amended by section 43 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1961, may only be performed by a licensed funeral director.*

2. A licensed funeral director shall ensure that the funeral establishment or direct cremation facility he or she manages complies with applicable state and federal law concerning the transportation of human remains of a deceased person into or out of this State.

Sec. 36. *1. The following functions may be performed only by a licensed embalmer or an apprentice embalmer under the direct supervision of a licensed embalmer:*

(a) The injection of any disinfecting or preservation solutions into human remains of a deceased person;

(b) The aspiration of any fluids from the abdominal or thoracic cavities of human remains of a deceased person;

(c) The mechanical setting of the features of human remains of a deceased person which requires the use of instruments or sutures;

(d) The suturing of human remains of a deceased person; and

(e) Completing any postautopsy or postaccident restoration of human remains of a deceased person.

2. Nothing in this section restricts the authority of a coroner or medical examiner concerning human remains of a deceased person that are under the jurisdiction of the coroner or medical examiner.

Sec. 37. *1. Before providing direct cremation services, a direct cremation facility must provide a disclosure to the person who is arranging for the direct cremation of human remains of a deceased person. The disclosure must be signed by the person who is arranging for the direct cremation and must state, without limitation, that the direct cremation facility is unable to:*

(a) Provide any rites or ceremonies in connection with the final disposition of the human remains of the deceased person;

(b) Provide facilities to conduct rites or ceremonies in connection with the final disposition of the human remains of the deceased person;

(c) Embalm the human remains of the deceased person;

(d) Provide a burial service for the human remains of the deceased person; or

(e) Provide for a viewing, other than an identification viewing, of the human remains of the deceased person.

2. In accordance with NRS 642.5172, a direct cremation facility must not be listed in any advertisement or notice published in a newspaper which indicates or implies that the direct cremation facility is providing any services outside the scope of its permit.

3. As used in this section, "identification viewing" means the viewing of human remains for identification purposes, for a period of time not to exceed 1 hour, by a person who is potentially capable of identifying the human remains.

Sec. 38. *1. Every funeral establishment must employ, or retain on a contract basis, a licensed embalmer.*

2. The holder of a permit to operate a funeral establishment shall, upon request, furnish proof to the Board that the funeral establishment is in compliance with the provisions of subsection 1.

Sec. 39. NAC 642.080 is hereby amended to read as follows:

642.080 1. The Chair 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 *or direct cremation facility* pursuant to NRS 642.345 ~~[;~~

~~(c)]~~ *, as amended by section 31 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1958;*

(b) A ~~[license to direct cremations or immediate burials]~~ *permit to operate a direct cremation facility* pursuant to ~~[NRS 642.355; or~~

~~(d)]~~ *section 5 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1950 (NRS 642.368);*

(c) A permit to operate a funeral establishment pursuant to NRS 642.365 ~~[.]~~ *; or*

(d) A license as an operator of a crematory pursuant to NRS 451.635.

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.

Sec. 40. NAC 642.090 is hereby amended to read as follows:

642.090 1. A person who is licensed as a funeral director may apply to the Board for approval to transfer the person's license from the funeral establishment *or direct cremation facility* which he or she 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 ~~[subsection 3 of NAC 642.120;]~~ *NRS 642.0696;* 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 the applicant's license was transferred unless he or she 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 ~~[.]~~ ***, as amended by section 31 of Senate Bill No. 286, chapter 348, Statutes of Nevada 2015, at page 1958.***

Sec. 41. NAC 642.100 is hereby amended to read as follows:

642.100 ~~[Before February]~~

1. On or before January 1 of each ***even-numbered*** year, a person who is licensed to operate a crematory pursuant to chapter 451 of NRS shall pay the fee set forth in ~~[subsection 7 of NAC 642.120]~~ ***NRS 642.0696*** to renew his or her license. If the person does not pay the required fee before February 1 ~~[.]~~ ***of that even-numbered year,*** the licensee shall pay the late fee set forth in ~~[subsection 7 of NAC 642.120]~~ ***NRS 642.0696*** in addition to the renewal fee.

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

Sec. 42. NAC 642.110 is hereby amended to read as follows:

642.110 ~~[Before February]~~

1. On or before January 1 of each ***even-numbered*** 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 ~~[subsection 6 of NAC 642.120]~~ ***NRS 642.0696*** to renew the certificate. If he or she does not pay the required fee before February 1 ~~[.]~~ ***of that even-numbered year,*** the holder of the

certificate shall pay the late fee set forth in ~~[subsection 6 of NAC 642.120]~~ ***NRS 642.0696*** in addition to the renewal fee.

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

Sec. 43. NAC 642.160 is hereby amended to read as follows:

642.160 1. A licensed funeral director, or a person ~~[who holds a license to conduct direct cremations or immediate burials,]~~ ***designated by the licensed funeral director to act on behalf of the licensed funeral director,*** may transport a dead human body if it is embalmed and prepared by a licensed embalmer.

2. A licensed funeral director ***, or a person designated by the licensed funeral director to act on behalf of the 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 licensed funeral director, or a person designated by the licensed funeral director to act on behalf of the licensed funeral director, may, without complying with the provisions of subsection 1 or 2, transport*** a dead human body ~~[to the care of a funeral establishment.]~~ ***from a location inside this State or within 90 miles of this State to any other location inside this State or within 90 miles of this State.***

Sec. 44. NAC 642.170 is hereby amended to read as follows:

642.170 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,]~~ ***642.5175,*** the term:

(a) "Unprofessional conduct" includes, in addition to the conduct set forth in NRS ~~[642.480,]~~ ***642.5174,*** stating or implying that the holder of the license ***, certificate*** or permit is willing to carry out a duty for which a license ***, certificate*** or permit is required pursuant to chapter ***451, 452 or*** 642 of NRS if that duty is not authorized by the holder's license ***, certificate*** 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 ***, certificates*** and permits necessary for the operation of the ***funeral*** establishment ~~[.]~~ ***, direct cremation facility, crematory or cemetery.***

(b) "False or misleading advertising" includes, in addition to the conduct set forth in NRS ~~[642.490,]~~ ***642.5172,*** advertising that states or implies that the holder of the license ***, certificate*** or permit is willing to carry out a duty for which a license ***, certificate*** or permit is required pursuant to chapter ***451, 452 or*** 642 of NRS if that duty is not authorized by the holder's license ***, certificate*** 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 , ***certificates*** and permits necessary for the operation of the ***funeral*** establishment ~~[~~ , ***direct cremation facility, crematory or cemetery.***

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

Sec. 45. NAC 642.180 is hereby amended to read as follows:

642.180 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 or her, 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 or she 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 or her 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 or her 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 or her answer to the notice of hearing and the formal complaint not later than 15 days after the date on which the respondent 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, the licensee 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,]~~ ***642.5178*** 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 ***certificate or*** permit issued pursuant to the provisions of chapter 451, 452 or 642 of NRS.

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

Sec. 46. NAC 642.120 is hereby repealed.

TEXT OF REPEALED SECTION

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