

EFFECTIVE
09-30-2020

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 68

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 68 FUNERAL ESTABLISHMENTS AND BRANCH ESTABLISHMENTS

001. SCOPE AND AUTHORITY. This chapter governs the licensing of funeral establishments and branch establishments under Nebraska Revised Statute (Neb. Rev. Stat.) §§ 38-1401 to 38-1428 of the Funeral Directing and Embalming Practice Act and the Uniform Credentialing Act.

002. DEFINITIONS. Definitions set out in the Funeral Directing and Embalming Practice Act, the Uniform Credentialing Act, and 172 Nebraska Administrative Code (NAC) 9 apply to this chapter.

003. ESTABLISHMENT LICENSE. To obtain a license, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the licensing requirements of Neb. Rev. Stat. §§ 38-130, 38-1419 through 38-1420, 4-108 through 4-111, 172 NAC 9, and this chapter.

003.01 MANAGER LICENSE. The applicant must submit evidence that the proposed manager has a current active Nebraska funeral director or funeral director and embalmer's license.

003.02 SELF-EVALUATION. The applicant must submit a complete self-evaluation inspection report showing compliance with this chapter.

004. CHANGE IN MANAGER, OWNER, NAME AND LOCATION. Owners may request a change in manager, name, owner, or location of an establishment.

004.01 CHANGE IN MANAGER OR OWNER. To change the manager or owner, the applicant must submit a complete application to the Department and obtain another credential as specified in 172 NAC 68-003 as provided in Neb. Rev. Stat. § 38-1419 and submit the required fee for a reissued license.

004.01(A) IMMEDIATE TERMINATION OR DEATH OF MANAGER. In the event of an immediate termination of a manager or in the event of the death of the manager, the application for a change in manager must be submitted to the Department within 5 days following notification of termination or death of the manager. During this period of time, the establishment may operate as long as a licensed funeral director and embalmer is providing funeral directing and embalming services in accordance with the Funeral Directing and Embalming Practice Act and 172 NAC 67 and 172 NAC 68. Such exception terminates after the 5-day period.

004.02 CHANGE IN NAME. To change the name, the applicant must submit a request for a change in the establishment name as provided in Neb. Rev. Stat. § 38-1419 and submit the required fee for a reissued license.

004.03 CHANGE OF ESTABLISHMENT LOCATION. To change the location, the applicant must apply to the Department for and obtain another license as specified 172 NAC 68-003 as provided in Neb. Rev. Stat. § 38-1419.

004.04 ADDING A PREPARATION ROOM. For establishments that have been licensed without a preparation room and wish to add a preparation room for the care and preparation of dead human bodies for burial, disposition or cremation, the applicant must:

- (A) Notify the Department of the establishment's intent to have a preparation room; and
- (B) Have received a successful inspection rating within 30 days of the anticipated change in services.

005. ORGANIZED OR SCHEDULED FUNERAL SERVICES, AUTHORIZED SERVICES BY UNLICENSED PERSONS, AND STUDENTS IN MORTUARY SCHOOLS. The following sets out the requirements for organized or scheduled services, services that do not require a license, and student in an internship.

005.01 ORGANIZED OR SCHEDULED SERVICES. A licensed funeral director and embalmer must be present at each organized or scheduled funeral service, including a wake where an organized service is conducted or a religious service, burial and interment, whenever a dead human body is present.

005.02 SERVICES THAT DO NOT REQUIRE A LICENSE. The following do not require professional knowledge and skills as a funeral director or embalmer in order to provide the services or activities.

005.02(A) IMPLEMENTING ARRANGEMENTS. Persons, who are not licensed as funeral directors and embalmers, may assist in implementing arrangements made by a licensed funeral director and embalmer as long as they are under his or her supervision and responsibility. These activities include:

- (i) Driving or maintenance of funeral vehicles and facilities;
- (ii) Administrative duties;
- (iii) Applying cosmetics;
- (iv) Arranging or shampooing the hair of the deceased;
- (v) Ceremonial assistance, such as bathing, clothing, dressing and casketing the deceased body, and;
- (vi) Religious services.

005.02(B) FIRST CALLS. Persons, at the request of the licensed funeral director and embalmer, may make first calls or removals of dead human bodies.

005.02(C) STUDENTS. A student enrolled in a school accredited by the American Board of Funeral Service Education (ABFSE), may participate in a student practicum or internship in a licensed funeral establishment in Nebraska. The student may assist with funeral directing and embalming services when the student is in a recognized practicum

or internship, under the supervision of the school of mortuary science, and under the direct on-site supervision and responsibility of a Nebraska licensed funeral director and embalmer.

006. TRANSPORTATION AND FINAL DISPOSITION OF DEAD HUMAN BODIES. The following applies to transportation and final disposition of dead human bodies who have died due to a communicable disease, transporting a dead human body in-state and out-of-state, and final disposition requirements.

006.01 DECEASED DUE TO AN IMMEDIATELY REPORTABLE COMMUNICABLE DISEASE. Persons who have died due to any communicable disease listed in 173 NAC 1, which must be reported immediately, must be completely wrapped before removal from the premises. These requirements do not prohibit a public funeral, nor does it relieve persons who are quarantined as contacts from quarantine requirements. Bodies dead of such communicable diseases must be:

- (1) Thoroughly and promptly embalmed and be held in isolation from the public for a period of 24 hours following the embalming;
- (2) Encased immediately after death in a body transfer case or shipping case that is constructed out of 20 gauge steel and is hermetically sealed, and under no condition will the body be removed from the container; or
- (3) Cremated immediately. If visitation is to occur prior to cremation, the body must be thoroughly and promptly embalmed and held in isolation from the public for a period of 24 hours following the embalming.

006.01(A) DECEASED DUE TO A COMMUNICABLE DISEASE NOT REQUIRED TO BE IMMEDIATELY REPORTED. Persons who have died due to a communicable disease other than those listed in 173 NAC 1 which must be reported immediately, require no further special handling.

006.02 OUT-OF-STATE TRANSPORTATION. When a body is to be transported out of the state of Nebraska, the Nebraska funeral director and embalmer in charge of the body must determine the regulations governing the transportation of bodies in the other state or states, and must comply fully with the requirements of such regulations, must oversee the removal while the body is in Nebraska, and must comply with the requirements under 172 NAC 68 and with the Interstate Commerce Commission's requirements for transportation by common carrier.

006.03 IN-STATE TRANSPORTATION. Dead human bodies, which have not been embalmed, may not be transported by common carrier, unless the body is placed immediately after death in a body transfer case or shipping case that is constructed out of 20 gauge steel and is hermetically sealed. Transportation may be made by privately owned conveyance under the supervision and responsibility of a licensed funeral Director. Embalmed bodies may be transported by either common carrier or private carrier.

006.04 FINAL DISPOSITION OF EMBALMED AND UN-EMBALMED BODIES. Final disposition of a dead human body must meet the following:

006.04(A) UN-EMBALMED BODY. Upon receipt of a dead human body, the licensee has 24 hours to either bury, cremate, embalm, place in refrigerated storage, or place in a hermetically sealed container, which cannot be reopened. If placing in refrigerated storage, an un-embalmed body must:

- (i) Be retained at a constant temperature of less than 40 degrees Fahrenheit for not more than 8 days. An un-embalmed body may be retained in storage beyond the 8 days only when:
 - (1) Written notification of a criminal proceeding is received; or
 - (2) Upon receipt of a court order.
- (ii) When the body is removed from storage it must be embalmed, buried, cremated, or placed in a hermetically sealed container within 24 hours following the removal from storage.

006.04(B) EMBALMED BODY. Final disposition of a dead human body, which has been embalmed or been placed in a hermetically sealed container, must be made within 30 days after death. If death did not occur in Nebraska, final disposition of a dead human body must be made within 30 days after receipt of the dead human body.

006.04(B)(i) EXTENSION OF FINAL DISPOSITION. If unforeseen circumstances occur which would prevent final disposition of a dead human body within the required 30 days after death, the license holder must request an extension from the Director of the Division of Public Health to extend the final disposition date. The Director may authorize an extension of the required final disposition date of a dead human body up to 30 days. If final disposition has not occurred by the ending date of the extension, the license holder must seek court action regarding final disposition of the decedent's remains. To attain an extension, the licensee must submit a written request to the Department, which includes the following:

- (1) Name of funeral establishment and license holder overseeing the final disposition;
- (2) Name of the deceased;
- (3) Date of death of the deceased; and
- (4) An explanation of the basis for extending the final disposition, such as but not limited to family dispute, criminal investigation, military burial, shipments outside of the United States, or similar acts.

007. INSPECTIONS. All establishments will receive an initial and thereafter routine inspection. Establishments must be fully in compliance with 172 NAC 68-008.

007.01 INITIAL SELF-EVALUATION INSPECTION. Under 172 NAC 68-003, the applicant must conduct a self-evaluation inspection prior to the proposed opening date of the establishment.

007.02 TIMING OF INSPECTIONS. The Department may conduct an on-site unannounced inspection at any time it deems necessary.

008. FUNERAL ESTABLISHMENT REQUIRED DOCUMENTS, PHYSICAL STRUCTURE AND EQUIPMENT AND SUPPLIES. A licensee is responsible for operating a funeral establishment in compliance with the requirements of the statutes and this chapter.

008.01 PHYSICAL STRUCTURE. The physical structure must be maintained to ensure safety of the public and to ensure compliance with the equipment and sanitation requirements.

008.01(A) CONDUCTING FUNERAL SERVICES. If services include conducting funeral services for dead human bodies, the funeral establishment must have:

- (i) Room(s) for:
 - (1) Counseling families or next of kin;
 - (2) Conducting the funeral service; and
 - (3) Viewing the deceased;
- (ii) The room(s) must have:
 - (1) Floor to ceiling walls on all sides, and must be either a part of the funeral establishment or located at a licensed branch establishment, which is within a reasonable distance of the funeral establishment;
 - (2) Space for public seating;
 - (3) Space for viewing the dead human body; and
 - (4) May have an adjacent area for cosmetic services and dressing of the dead human body for viewing purposes;
- (iii) A casket selection area, which has either a catalogue or electronic media for ordering caskets, or has sample caskets displayed;
- (iv) Motor vehicles, such as, but not limited to, funeral coach, sedans, and vans; and
- (v) A general price list (GPL).

008.01(B) PREPARATION FOR FINAL DISPOSITION. If services include preparation for burial, disposition or cremation, the funeral establishment must include:

008.01(B)(i) PREPARATION ROOM. A preparation room for preparing dead human bodies for burial or other final disposition which has floor to ceiling walls on all sides that are cleanable, such as tile or other suitable hard surfaces, and ventilation that meets the Occupational Safety and Health Administration (OSHA) requirements. The preparation room must be clean and sanitary and contain equipment necessary for preparation of dead human bodies.

008.01(B)(ii) MATERIALS OR SUPPLIES. Materials or supplies which come in contact with a dead human body must not be used more than once without being first completely cleansed, disinfected, and then laundered.

008.01(B)(iii) BIO-WASTE MATERIALS. Bandages, cotton, and other bio-waste materials that have been in contact with bodily fluids must be destroyed or placed in the bio-waste receptacle for removal by a waste removal service immediately at the conclusion of each case.

008.01(B)(iv) EQUIPMENT WITHIN A MOTOR VEHICLE. All equipment within a motor vehicle used for the transportation of deceased persons, which comes in contact with a deceased person, must be thoroughly disinfected immediately at the conclusion of each instance of transportation.

009. BRANCH ESTABLISHMENT, PHYSICAL STRUCTURE AND CASKET SELECTION AREA. A branch establishment must comply with the physical structure requirements and may have a casket selection area.

009.01 PHYSICAL STRUCTURE. The physical structure must be maintained to ensure safety of the public and compliance with the equipment and sanitation requirements. The physical structure must have:

- (A) Adequate lighting to maintain public safety; and
- (B) If viewing of the dead human body is provided at the branch location, the viewing room(s) must have floor to ceiling walls on all sides.

009.02 CASKET SELECTION AREA. If the branch establishment has a casket selection area, the area may include a catalogue or electronic media for ordering caskets or have sample caskets displayed.

010. DOCUMENTS. Copies of the following must be posted or available in establishments:

010.01 POSTED. The following must be posted for public viewing:

- (A) The current establishment license;
- (B) The current license of the manager and all embalmers, apprentices, funeral directors and funeral directors and embalmers employed by the establishment; and
- (C) A sign containing the name of the establishment. The sign must be located on or at the front of the building in a position where it clearly is visible and legible from the outside of the building.

010.02 AVAILABLE. If funeral arrangements are made, written statements containing a list of principal services and furnishings to be supplied by the funeral director and embalmer for the preparation and burial or cremation of a dead human body, including a general price list must be provided to the customer.

011. CLOSING AN ESTABLISHMENT. When a licensee anticipates closing an establishment, the Department must be notified in writing of the closing date. The licensee must retain the establishment's pre-need records in compliance with the Burial Pre-Need Sale Act and upon closing the establishment, the licensee must forward said records to another funeral establishment in Nebraska. The licensee must remove all signage relating to the name of the funeral establishment or branch establishment upon its closing.

012. RENEWAL. The applicant must meet the requirements of Neb. Rev. Stat. § 38-143 and 172 NAC 9. All establishments issued by the Department will expire February 1 of each even-numbered year.

013. REAPPLICATION. Applicants who were previously licensed in Nebraska and seek the authority to return to operation must meet the requirements set out in 172 NAC 9 and the statutes.

014. FEES. Fees referred to in this chapter are set out in 172 NAC 2.