

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 67 LICENSURE OF FUNERAL DIRECTORS AND EMBALMERS

67-001 SCOPE AND AUTHORITY: These regulations govern the licensure of funeral directors and embalmers under the Funeral Directing and Embalming Practice Act and the Uniform Credentialing Act. Persons providing funeral directing and embalming services to clients located in Nebraska must be licensed as a funeral director and embalmer in Nebraska unless they are exempt under the Act.

67-002 DEFINITIONS: For purposes of these regulations, definitions in the Uniform Credentialing Act and the Funeral Directing and Embalming Practice Act and the following definitions are hereby adopted.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Licensure in another jurisdiction means holding a credential that authorizes the individual to engage in the profession of funeral directing and embalming which would otherwise be unlawful, from the District of Columbia or any state, territory, or possession of the United States of America, or any province of Canada.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

Served in the regular armed forces has the same meaning as "military service" in these regulations.

67-003 INITIAL AND RECIPROCITY LICENSE: To receive a license, an individual must submit a complete application, pay the appropriate fee, and meet the following:

67-003.01 Age and Good Character: Be at least 19 years old and of good character;

67-003.02 Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;

67-003.03 General Education: Have earned the equivalent of 60 semester hours of college credit, which includes:

- a. 6 semester hours of English;
- b. 6 semester hours of accounting;
- c. 8 semester hours of chemistry;
- d. 12 semester hours of biological science relating to the human body; and
- e. 6 semester hours of psychology or counseling;

Reciprocity: For reciprocity an applicant must have the following:

1. Education/Practice: Earned the equivalent of 60 semester hours of college credit and either coursework as listed in 172 NAC 67-003.03 or practice as follows:
 - a. At least 5 years of practice as a licensed or certified Funeral Director and Embalmer in another state. A year of apprenticeship does not constitute licensure or certification in this case. It must be 5 years of practice beyond the year of apprenticeship; and
2. Continuing Education: Completed at least 16 hours of funeral directing and embalming continuing education within the previous 24 months immediately prior to application;

67-003.04 Mortuary Science Education: Have completed a full course of instruction in an accredited school of mortuary science. Hours earned in a school of mortuary science as part of the mortuary program may not be used for the 60 semester hours;

67-003.05 Apprenticeship: Have completed a 12-month apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. The apprenticeship must:

- a. Be registered with the Department prior to the start date;
- b. Be completed in one of the following ways:
 - (1) 6 months split as specified in 172 NAC 67-004.01 or
 - (2) Full 12 months; and

- c. Consist of arterially embalming 25 bodies and assisting with 25 funerals.

Reciprocity: Have completed 1 year of funeral directing and embalming practice following licensure/certification in another jurisdiction is deemed equivalent to a 12-month apprenticeship.

67-003.06 Examination: Have successfully passed the national standardized examination developed and administered by The International Conference of Funeral Service Examining Boards, the Nebraska jurisprudence examination and Nebraska vital statistic forms examination with a score of 75% or above on each examination.

67-003.07 Denied or Withdrawn Applications

67-003.07A Denied Applications: An applicant for a funeral directing and embalming license whose application is denied by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department. Any examination fee will not be returned.

67-003.07B Withdrawn Applications: An applicant for a funeral directing and embalming license may request to withdraw the application. A request to withdraw an application will be granted:

1. When the application is incomplete; or
2. When the request for withdrawal is received within five business days of the receipt of a completed application.

If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

67-004 APPRENTICE LICENSE: Individuals applying for an initial license as a Funeral Director and Embalmer must complete an apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. Apprenticeships must be served in the State of Nebraska in a licensed Funeral Establishment and the first 25 funeral assists and 25 embalmings must be completed under direct onsite supervision of the supervising funeral director and embalmer.

Applicants may complete the 12 months apprenticeship in either a split apprenticeship or a full apprenticeship. Before beginning an apprenticeship, an individual must apply and be approved by the Department for apprentice licensure.

67-004.01 Types of Apprenticeship:

1. 12-Month Full Apprenticeship. An applicant may serve a 12-month full apprenticeship by serving over a continuous 12-month period following the successful completion of a full course of study in an accredited school of mortuary science and the successful passage of the licensing examination. Licensure will

be for 12 months from the date of issuance, must be completed over a continuous 12-month period and will not be extended by the Board.

2. 12-month Split Apprenticeship. An applicant may serve a 12-month split apprenticeship by serving 6 months prior to attending a school of mortuary science and serving the remaining 6 months after graduation from a school of mortuary science. Licensure will be for 6 months from the date of issuance, must be completed over a continuous 6-month period and will not be extended by the Board.

67-004.02 License: To receive an apprentice license, an individual must submit a complete application, pay the appropriate fee, and meet the following:

67-004.02A Age and Good Character: Be at least 19 years old and of good character;

67-004.02B Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;

67-004.02C General Education: Have completed at least 39 of the 60 semester hours of college credit, as specified in 172 NAC 67-003.03;

67-004.02D Mortuary Science Education and Examination: If requesting a 12-Month apprenticeship or the final 6-month apprenticeship:

1. Have completed a full course of instruction in an accredited school of mortuary science; and
2. Have successfully completed the licensing examination.

Items 1 and 2 above do not apply when requesting the first 6-Months of a split apprenticeship; and

67-004.02EF Supervisor: Have a supervisor who is licensed and practicing as a funeral director and embalmer in Nebraska.

67-004.03 Change in Supervisor: An individual who changes his/her supervisor or adds a new supervisor must submit a complete application to the Department within 30 days following the change. A complete application includes all required documentation and a written application.

67-004.04 Denied or Withdrawn Applications

1. Denied Applications: An applicant for an apprentice license whose application is denied by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

2. Withdrawn Applications: An applicant for apprentice license may request to withdraw the application. A request to withdraw an application will be granted:
- a. When the application is incomplete; or
 - b. When the request for withdrawal is received within five business days of the receipt of a completed application.

If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

67-005 EXAMINATIONS

67-005.01 Jurisprudence and Vital Statistics Forms Examination:

67-005.01A Eligibility: To be eligible to take the jurisprudence examination and vital statistics forms examination, an applicant must:

1. Have received written notification from the Department approving a 12-month apprenticeship license; or
2. Have received written notification from the Department approving a final 6-month apprenticeship license; or
3. Meet the requirements for licensing by reciprocity as specified in 172 NAC 67-003.

67-005.01B Examination Registration: To register for the jurisprudence examination and vital statistics forms examination, the applicant must submit a complete application to the Department.

67-005.01C Special Accommodations: If special accommodations are requested, such request may be submitted on a form provided by the Department. If the applicant has a learning disability, a psychological disability, or hidden disability that requires an accommodation in testing, an originally signed and dated document must be submitted from an appropriate professional (education professional, doctor, psychologist, psychiatrist) verifying the applicant's disabling condition which requires special accommodations.

67-006 RENEWAL: An individual who wants to renew his/her license to practice as a funeral director, embalmer or funeral director and embalmer must, prior to the expiration date, file an application for renewal, pay the fee, and demonstrate compliance with continuing education requirements.

67-006.01 Continuing Education: On or before February 1st of each even-numbered year, each Funeral Director, Embalmer or Funeral Director and Embalmer holding an active license in the State of Nebraska must:

1. Complete at least 16 hours of acceptable continuing education hours during the preceding 24-month period. A licensee may carry-over up to 4 hours earned beyond the 16 hours for the next renewal period.
2. Take the Nebraska Jurisprudence Examination at least 1 time every 10 years.

67-006.01A Continuing Education Hour/Credit Calculations. The following provides the hour/credit calculations:

1. Academic Credit: All 16 hours of continuing education hours per a biennial renewal period may be obtained through academic credit; hours are calculated as follows:
 - a. 1 semester hour of academic credit equals 15 continuing education hours; and
 - b. 1 quarter hour of academic credit equals 10 continuing education hours;
2. Home Study/Internet/Other Electronic Means: A maximum of 8 hours of continuing education hours per a biennial renewal period may be obtained through home study programs.
3. Continuing Education Workshops: All 16 hours of continuing education hours per a biennial renewal period may be obtained through continuing education workshops, lectures, or interactive satellite/web workshops. 60 minutes of participation equals 1 continuing education hour. Credit will not be awarded for breaks and meals.
4. Jurisprudence Examination: 4 hours of continuing education hours will be granted for licensees receiving a score of 75% or above on the jurisprudence examination. A licensee must take the jurisprudence examination at least 1 time every 10 years.
5. Tours: A maximum of 2 hours of continuing education credit per a biennial renewal period may be obtained through a funeral directing and embalming related tour. Conducting a tour of the licensee's facility does not constitute continuing education. 60 minutes of tour participation equals 1 continuing education credit.
6. Exhibits/Displays: A maximum of 2 hours of continuing education hours per a biennial renewal period may be obtained through a funeral directing and embalming related exhibit/display. If a continuing education workshop provides an exhibit or display area, a licensee may earn 1 continuing education credit per workshop for viewing the exhibits/displays.

7. District/State/National Association Meetings: A maximum of 8 hours of continuing education hours per a biennial renewal period may be obtained through attendance at a District, State, or National Association Business Meeting. 60 minutes of participation constitutes 1 continuing education credit. Only 1 hour may be obtained per meeting.

67-006.01B Acceptable Continuing Education Topic Areas: The Board does not approve continuing education programs/activities. In order for a continuing education activity/program to be accepted for renewal or reinstatement of a license, the activity must include one or a combination of the following topic areas:

1. Communication/Media;
2. Counseling/Arbitration;
3. Customer relations;
4. Disaster training;
5. Embalming practice;
6. Funeral directing practice;
7. Management (stress/personnel/business);
8. Marketing/advertising;
9. Personal development; or
10. Pre-need.

67-006.01C Continuing Education Workshop/Program Criteria: To be considered acceptable for continuing education, a workshop/program must meet the following criteria:

1. Be at least 60 minutes in duration;
2. Objectives must relate to the topic areas defined in 172 NAC 67-006.01B;
3. Presenters of programs must be qualified by education, experience or training;
4. Must be open to all Funeral Directors and Embalmers licensed by Nebraska who meet the pre-requisites for the program; and
5. The provider must have a process for verifying attendance and issue a certificate of attendance. Each certificate must include the following:
 - a. Program name;
 - b. Name of the participant and his or her license number;
 - c. Provider's name;
 - d. Date the program began and ended; and
 - e. Number of hours received by the licensee.

67-006.01D Criteria for a Home Study Program/Internet/Other Electronic Means: To be considered acceptable, a home study program must meet the following criteria:

1. Objectives must relate to the topic areas defined in 172 NAC 67-006.01B;
2. Author(s) of home study programs must meet the following qualifications:
 - a. Have experience in the content and subject matter;
 - b. Have expertise in teaching and instructional methods suitable to subject presented; and
 - c. Have suitable academic qualifications, certification credentials, and/or experience for subject presented; and
3. Must be a post-test or other method of assessment which verifies that the licensee completed the program.

67-006.02 Waivers of Continuing Education:

67-006.02A Military Service

1. Licensees actively engaged in military service are not required to pay the renewal fee.
2. The Department may waive continuing competency requirements if a licensee has served in the regular armed forces of the U.S. during part of the credentialing period immediately preceding the renewal date.

67-006.02B First Licensed: The Department waives continuing education requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

67-006.02C Medical: The Board may waive continuing education for individuals who have been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date.

67-006.03 Inactive Status: When an individual wants to have his/her license placed on inactive status, s/he must notify the Department in writing. There is no fee to have a license placed on inactive status and continuing education is not required.

67-007 DISCIPLINARY ACTION

67-007.01 Grounds for Discipline: A funeral directing, embalming or funeral directing and embalming license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. §§ 38-178, 38-1423 and 38-1424 or for unprofessional conduct.

67-007.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of funeral directing and embalming or the ethics of the profession, regardless of whether a person, patient, or entity is injured, but does not include a single act of ordinary negligence.

Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to the acts set out in Neb. Rev. Stat. §§ 38-179 and the following:

1. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department;

67-008 REINSTATEMENT: This section applies to individuals previously licensed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska license. Individuals may apply for reinstatement as follows:

1. An individual whose license has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose license has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose license has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose license has been permanently voluntarily surrendered is not eligible for reinstatement and may not reapply for a new credential of the same license type.

The voluntary surrender of a license may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

67-009 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

Effective Date
01/19/05

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 67

~~TITLE 172 — PROFESSIONAL AND OCCUPATIONAL LICENSURE~~

~~CHAPTER 67 — FUNERAL DIRECTING AND EMBALMING~~

~~67-001 SCOPE AND AUTHORITY: These regulations apply to licensure of Funeral Directors and Embalmers as defined by Neb. Rev. Stat. §§ 71-1301 to 71-1306 and §§71-1326 to 71-1354 and the Uniform Licensing Law.~~

~~67-002 DEFINITIONS:~~

~~Accredited School of Mortuary Science means a school of the same type as those rated Class A by the Conference of Funeral Service Examining Boards of the United States, Inc., approved by the Department upon recommendation of the Board.~~

~~Act means Neb. Rev. Stat. §§ 71-1301 to 71-1306 and §§71-1326 to 71-1354, commonly known as the Practice of Funeral Directing and Embalming.~~

~~Apprentice means a person registered with the Department as an apprentice who is completing a twelve-month apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. The licensed Funeral Director and Embalmer is responsible for all funeral assists and embalmings completed by the apprentice.~~

~~Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.~~

~~Board means the Board of Funeral Directing and Embalming.~~

~~Branch Establishment means a place of business situated at a specific street address or location which is a subsidiary of a licensed funeral establishment, which contains a casket display room, a viewing area, or an area for conducting funeral services, or all of them, and where any portion of the funeral service or arrangements for the disposition of a dead human body is conducted.~~

~~Casket means a receptacle for a dead human body and does not include vaults, lawn crypts, mausoleums, or other outside receptacles for caskets.~~

~~Completed Application means an application with all of the information requested, the signature of the applicant, fees, and all required documentation submitted.~~

~~Continuing Competency means to ensure:~~

- ~~1. — The maintenance by a credentialed person of knowledge and skills necessary to competently practice funeral directing and embalming;~~
- ~~2. — The utilization of new techniques based on scientific and clinical advances, and~~
- ~~3. — The promotion of research to assure expansive and comprehensive services to~~

~~the public. It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. Section § 71-1354.~~

~~Continuing Competency may be obtained through the following activities:~~

- ~~1. Academic Coursework;~~
- ~~2. Home Study;~~
- ~~3. Jurisprudence Examination;~~
- ~~4. Tours;~~
- ~~5. District/State/National Business Meetings;~~
- ~~6. Exhibits; and/or~~
- ~~7. Continuing Education Programs (Workshops/Lectures).~~

~~Continuing Competency Hour or Credit means:~~

- ~~1. Academic Credit:
 - ~~a. One semester hour of academic credit equals 15 continuing competency credit hours; and~~
 - ~~b. One quarter hour of academic credit equals 10 continuing competency credit hours;~~~~
- ~~2. Home Study: A maximum of 8 hours of credit per a biennial renewal period may be obtained through home study programs;~~
- ~~3. Jurisprudence Examination: 4 hours will be granted for licensees who complete the Jurisprudence Examination, the examination must be taken at least 1 time every 10 years;~~
- ~~4. Tours: 1 hour will be granted for each 60 minutes of participation. A licensee may earn up to 4 hours per biennium renewal period;~~
- ~~5. District/State/National Association Meetings: 1 hour will be granted for attending a District, State, and/or National Meeting. A licensee may earn up to 8 hours per biennium renewal period;~~
- ~~6. Exhibits/Displays: 1 hour per program will be granted for viewing exhibits/displays. A licensee may earn up 4 hours per biennium renewal period;~~
- ~~7. Continuing Education Programs (Workshops/Lectures): 60 minutes of participation equals 1 continuing competency hour.~~

~~Cremation means the technical process that uses heat and evaporation to reduce human remains to bone fragments.~~

Department means the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Division means the Credentialing Division of the Department of Health and Human Services Regulation and Licensure.

Embalming means the practice of preparing a dead human body for burial or other final disposal by a licensed Funeral Director and Embalmer or an apprentice, requesting and obtaining burial or removal permits, or assuming any of the other duties incident to the practice of embalming. Any person who publicly professes to be a Funeral Director and Embalmer or an apprentice is deemed to be practicing embalming. The performance of the following acts is also deemed the practice of embalming:

1. The disinfection and preservation of dead human beings, entire or in part; and
2. The attempted disinfection and preservation thereof by the use or application of chemical substances, fluids, or gases ordinarily used, prepared, or intended for such purposes, either by outward application of such chemical substances, fluids, or gases on the body or by introducing them into the body, by vascular or hypodermic injection, or by direct introduction into the organs or cavities.

Funeral Directing means

1. Counseling families or next of kin in regard to the conduct of a funeral service for a dead human body for burial, disposition, or cremation or directing or supervising burial, disposition, or cremation of dead human bodies;
2. Providing for or maintaining a funeral establishment; or
3. The act of representing oneself as or using in connection with one's name the title of Funeral Director, mortician, or any other title implying that s/he is engaged in the business of funeral directing.

Funeral Establishment means a place of business situated at a specific street address or location devoted to the care and preparation of dead human bodies for burial, disposition, or cremation or to conducting or arranging funeral services for dead human bodies.

Inactive License means the voluntary termination of the right or privilege to engage in funeral directing and/or embalming. The licensee retains the right or privilege to represent himself or herself as having an inactive license.

Licensee means a person licensed by the Department as a Funeral Director and Embalmer on or after January 1, 1994, or a person licensed as a Funeral Director or Embalmer prior to January 1, 1994.

~~Licensure examination means a national standardized examination, the Jurisprudence examination, and the vital statistic forms examination. The national standardized examination is developed and administered by The International Conference of Funeral Service Examining Boards.~~

~~Official Transcript means issued by and under the original seal of the educational institution.~~

~~NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 67.~~

~~Supervision means the direct oversight or the easy availability of the supervising funeral director and embalmer. The first 25 funeral assists and embalmings must be completed under direct onsite supervision of the supervising funeral director and embalmer.~~

~~Verified means sworn to before a Notary Public.~~

~~67-003 LICENSE ISSUANCE REQUIREMENTS: The criteria for issuance of a license and the documentation required by the Board are set forth below:~~

~~67-003.01 Initial Licensure~~

~~67-003.01A Requirements: An applicant must:~~

- ~~1. Have earned the equivalent of 60 semester hours of college credit, which includes:
 - ~~a. 6 semester hours of English;~~
 - ~~b. 6 semester hours of accounting;~~
 - ~~c. 8 semester hours of chemistry;~~
 - ~~d. 12 semester hours of biological science relating to the human body; and~~
 - ~~e. 6 semester hours of psychology or counseling;~~~~
- ~~2. Have completed a full course of instruction in an accredited school of mortuary science. Hours earned in a school of mortuary science as part of the mortuary program may not be used for the 60 semester hours;~~
- ~~3. Have completed a 12-month apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. The apprenticeship must:
 - ~~a. Be registered with the Department prior to the start date;~~
 - ~~b. Be completed in one of the following ways:
 - ~~(1) 6 months split as specified in 172 NAC 67-004.02; or~~
 - ~~(2) Full 12 months; and~~~~~~

~~_____ c. Consist of arterially embalming 25 bodies and assisting with 25
_____ funerals;~~

~~4. Have successfully passed the national standardized examination, the
Nebraska jurisprudence examination and Nebraska vital statistic forms
examination with a score of 75% or above on each examination; and~~

~~5. Have attained at least the age of majority and have good moral character.~~

~~67-003.01B Application Process: The following must be submitted to the Department:~~

~~1. Application: The completed application on Attachment A attached to these
regulations and incorporated by this reference.~~

~~2. Conviction and Licensure Information:~~

~~_____ a. If the applicant has been convicted of a misdemeanor or felony:~~

~~(1) Official Court Record, which includes charges and
_____ disposition;~~

~~(2) Copies of arrest records;~~

~~(3) A letter from the applicant explaining the nature of the
_____ conviction;~~

~~(4) All addiction/mental health evaluations and proof of
_____ treatment; and~~

~~(5) A letter from the probation officer addressing probationary
conditions and current status, if the applicant is currently
on probation;~~

~~_____ b. If the applicant holds a license in another state(s), the name of
such state(s);~~

~~_____ c. If any disciplinary action was taken against the applicant's license
by another state, an official copy of the disciplinary action,
including charges and disposition;~~

~~_____ 2. Academic Transcript: An official transcript showing receipt of completion of:~~

~~_____ a. 60 semester hours of college credit as defined in 172 NAC 67-
_____ 003.01A; and~~

~~_____ b. A full course of instruction in an accredited school of mortuary
_____ science.~~

~~_____ 3. Embalming/Funeral Assists: 25 case reports showing completion of arterially
embalmed bodies and evidence of 25 funeral assists on a form provided by
the Department;~~

- ~~4. Age of Majority: Evidence that s/he is at least the age of majority, such as:~~
- ~~a. Driver's license;~~
 - ~~b. Birth certificate;~~
 - ~~c. Marriage license; or~~
 - ~~d. Other similar documentation;~~
- ~~5. Attestation by the Applicant:~~
- ~~a. That s/he has not practiced in Nebraska prior to the application for a license; or~~
 - ~~b. To the actual number of days practiced in Nebraska prior to the application for a license.~~
- ~~6. Examination: An official score report from the International Conference of Funeral Service Examining Boards, Inc.; and~~
- ~~7. Fee: The required licensure fee.~~

~~67-003.01C Pro-rated Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.~~

~~67-003.01D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.~~

~~67-003.01E Application Processing Timeframes: The Department will act within 150 days upon all completed applications for a license.~~

~~67-003.02 Reciprocity~~

~~67-003.02A Requirements: An applicant for a license to practice as a Funeral Director and Embalmer who is licensed or credentialed under a similar name in another state or jurisdiction must:~~

- ~~1. Hold a current license or credential of similar name in another state or jurisdiction;~~
- ~~2. Have earned the equivalent of 60 semester hours of college credit, and have either coursework or practice as follows:~~
 - ~~a. The following coursework:~~
 - ~~(1) 6 semester hours of English;~~
 - ~~(2) 6 semester hours of accounting;~~

- ~~(3) 8 semester hours of chemistry;~~
- ~~(4) 12 semester hours of biological science relating to the human body; and~~
- ~~(5) 6 semester hours of psychology or counseling; or~~

~~b. 5 years of practice as licensed or credentialed under a similar name as Funeral Director and Embalmer in another state immediately prior to application. A year of apprenticeship does not constitute licensure/certification in this case. It must be 5 years of practice beyond the year of apprenticeship.~~

- ~~3. Have completed a full course of instruction in an accredited school of mortuary science. Hours earned in a school of mortuary science as part of the mortuary program may not be used for the 60 semester hours;~~
- ~~4. Have successfully passed the National Board Examination, the Nebraska jurisprudence examination, and the Nebraska vital statistic forms examination with a score of 75% or above on each examination;~~
- ~~5. Have attained at least the age of majority and have good moral character; and~~
- ~~6. Have been in the active and continuous practice under license or credential in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or credential or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure.~~

~~67-003.02B Application Process: The following must be submitted to the Board:~~

- ~~1. Application: The completed application must be submitted on Attachment A;~~
- ~~2. Official Transcript: An official transcript showing completion of:
 - ~~a. 60 semester hours of college credit as defined in 172 NAC 67-003.01A or evidence of 5 years of practice pursuant to 67-003.02A section 2b; and~~
 - ~~b. Completion of a full course of instruction in an accredited school of mortuary science.~~~~

~~3. Conviction and Licensure Information:~~

- ~~a. If the applicant has been convicted of a misdemeanor or felony:
 - ~~(1) Official Court Record, which includes charges and disposition;~~~~

- ~~(2) Copies of arrest records;~~
- ~~(3) A letter from the applicant explaining the nature of the conviction;~~
- ~~(4) All addiction/mental health evaluations and proof of treatment; and~~
- ~~(5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~

- ~~b. The name of the state(s) in which the applicant holds a license(s)/credential(s);~~
- ~~c. If any disciplinary action was taken against the applicant's license/credential by another state, an official copy of the disciplinary action, including charges and disposition;~~

~~4. Certification of Licensure: Have the licensing or certifying agency submit to the Department a certification of licensure/credential. The certification must certify:~~

- ~~a. That the applicant is duly licensed or credentialed, that his/her license or credential has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;~~
- ~~b. The nature of disciplinary actions, if any, taken against the applicant's license or credential;
 - ~~(1) The date of the applicant's license/credential;~~
 - ~~(2) The score attained on the examination; and~~
 - ~~(3) Documentation of the requirements for licensure/credential in the other jurisdiction which are currently in effect and which were in effect at the time the license/credential was issued;~~~~

~~5. Examination: An official score report from the International Conference of Funeral Service Examining Boards, Inc.~~

~~6. Age of Majority: Evidence that s/he is at least the age of majority, such as:~~

- ~~a. Driver's license;~~
- ~~b. Birth certificate;~~
- ~~c. Marriage license; or~~
- ~~d. Other similar documentation;~~

~~7. Attestation by the applicant:~~

- ~~a. That s/he has not practiced in Nebraska prior to the application for a license; or~~
~~b. To the actual number of days practiced in Nebraska prior to the application for a license; and~~

~~8. Fee: The required licensure fee.~~

~~67-003.02C Pro-rated Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.~~

~~67-003.02D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.~~

~~67-003.02E Application Processing Time: The Department will act within 150 days upon all completed applications for a license.~~

~~67-004 APPRENTICESHIP REQUIREMENTS: Individuals applying for an initial license as a Funeral Director and Embalmer must complete the apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. Apprenticeships must be served in the State of Nebraska in a licensed Funeral Establishment. Applicants may complete the 12 months apprenticeship in either a split apprenticeship or a full apprenticeship. The criteria and documentation required by the Department are set forth below:~~

~~67-004.01 12-Month Apprenticeship~~

~~67-004.01A Requirements: Applicants must:~~

- ~~1. Have completed at least 39 of the 60 hours specified in 172 NAC 67-003.01A;~~
- ~~2. Have successfully completed a full course of study in an accredited school of mortuary science;~~
- ~~3. Have successfully passed the national standardized examination;~~
- ~~4. Be of the age of majority and of good moral character; and~~
- ~~5. Submit to the Board:~~

- ~~a. A completed application on Attachment B attached to these regulations and incorporated by this reference;~~
- ~~b. An official transcript showing completion of:

~~(1) At least 39 of the required 60 semester hours of college credit specified in 172 NAC 67-003.01A; and~~
~~(2) A full course of instruction in an accredited school of mortuary science;~~~~
- ~~c. An official score report from the International Conference of Funeral Service Examining Boards, Inc.;~~
- ~~d. Evidence that s/he is at least the age of majority, such as:

~~(1) Driver's license;~~
~~(2) Birth certificate;~~
~~(3) Marriage license; or~~
~~(4) Other similar documentation;~~~~
- ~~_____ e. If the applicant has been convicted of a misdemeanor or felony:

~~(1) Official Court Record, which includes charges and disposition;~~
~~(2) Copies of arrest records;~~
~~(3) A letter from the applicant explaining the nature of the conviction;~~
~~(4) All addiction/mental health evaluations and proof of treatment; and~~
~~(5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~~~
- ~~_____ f. Attestation by the applicant:

~~(1) That s/he has not practiced in Nebraska prior to the application for a registration; or~~
~~(2) To the actual number of days practiced in Nebraska prior to the application for a registration; and~~~~
- ~~_____ g. The required fee.~~

~~67-004.01B Changes in Supervisor: The Department must be notified of any supervisor changes, which occur during completion of the apprenticeship by submitting a completed Attachment C attached to these regulations and incorporated by this reference.~~

~~67-004.01C Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.~~

~~67-004.01D Application Processing Time: The Department will act within 150 days upon all completed applications for a license.~~

~~67-004.02 Split Apprenticeship~~

~~67-004.02A First 6 Month Apprenticeship~~

~~67-004.02A1 Requirements: 6 months of apprenticeship must be completed prior to attending an accredited school of mortuary science and will be valid for 6 months from the date of issuance. The apprenticeship must be completed over a continuous 6-month period and will not be extended by the Board. To register, applicants must:~~

- ~~1. Have completed at least 39 of the 60 hours specified in 172 NAC 67-003.01A;~~
- ~~2. Be of the age of majority and of good moral character; and~~
- ~~3. Submit to the Board:
 - ~~a. A completed application on Attachment B;~~
 - ~~b. An official transcript showing completion of at least 39 or the required 60 semester hours specified in 172 NAC 67-003.01A;~~
 - ~~c. The required fee;~~
 - ~~d. Evidence that s/he is at least the age of majority, such as:
 - ~~(1) Driver's license;~~
 - ~~(2) Birth certificate;~~
 - ~~(3) Marriage license; or~~
 - ~~(4) Other similar documentation;~~~~~~
- ~~e. If the applicant has been convicted of a misdemeanor or felony:
 - ~~(1) Official Court Record, which includes charges and disposition;~~
 - ~~(2) Copies of arrest records;~~
 - ~~(3) A letter from the applicant explaining the nature of the conviction;~~
 - ~~(4) All addiction/mental health evaluations and proof of treatment; and~~~~

- (5) ~~A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~

~~f. Attestation by the applicant:~~

- (1) ~~That s/he has not practiced in Nebraska prior to the application for a registration; or~~
(2) ~~To the actual number of days practiced in Nebraska prior to the application for a registration; and~~

~~g. The required fee.~~

~~67-004.02A2 Changes in Supervisor: The Department must be notified of any supervisor changes which occur during completion of the apprenticeship by submitting Attachment C attached to these regulations and incorporated by this reference.~~

~~67-004.02A3 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.~~

~~67-004.02A4 Application Processing Time: The Department will act within 150 days upon all completed applications for a license.~~

~~67-004.02B Final 6 Month Apprenticeship: Registration will be valid for 6 months from the date of issuance. The apprenticeship must be completed over a continuous 6-month period and will not be extended by the Board.~~

~~67-004.02B1 Requirements: To register, applicants must:~~

- ~~1. Have successfully completed a full course of study in an accredited school of mortuary science;~~
- ~~2. Have successfully passed the national standardized examination; and~~
- ~~3. Submit to the Board:
 - ~~a. A completed application on Attachment B;~~
 - ~~b. An official transcript showing completion of a full course of study in an accredited school of mortuary science; and~~
 - ~~c. An official score report from the International Conference of Funeral Service Examining Boards, Inc.~~~~

~~67-004.02B2 Changes in Supervisor: The Department must be notified of any supervisor changes which occur during completion of the apprenticeship by submitting Attachment C attached to these regulations and incorporated by this reference.~~

~~67-004.02B3 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.~~

~~67-004.02B4 Application Processing Time: The Board will act within 150 days upon all completed applications for registration.~~

67-005 EXAMINATION ELIGIBILITY

~~67-005.01 Jurisprudence Examination and Vital Statistics Forms Examination: To be eligible to take the jurisprudence examination and vital statistics forms examination, an applicant must have received written notification from the Department of a 12-month apprenticeship or final 6-month apprenticeship registration. A license will not be issued until the applicant has completed all licensure requirements.~~

67-006 EXAMINATION PROCEDURES

67-006.01 Applicant Responsibility:

- ~~1. To register for the jurisprudence examination and vital statistics forms examination, the applicant must submit to the Department Attachment D attached to these regulations and incorporated by this reference.~~
- ~~2. To register for the national board examination, the applicant must contact The International Conference of Funeral Service Examining Boards.~~

~~67-006.02 Department Responsibilities: The Department will review each jurisprudence examination and vital statistics forms examination application and notify the applicant of approval or denial to take the examination.~~

~~67-006.03 Examination Schedule: The Department will, at least 2 times per year, offer the jurisprudence examination and vital statistics forms examination. The Department will determine dates, location, and times.~~

~~67-006.04 Special Accommodations:~~ If special accommodations are requested, such request may be submitted on a form provided by the Department. This information will be retained as confidential and not for public view. The request must include the following information:

- ~~1. Applicant Name;~~
- ~~2. Address;~~
- ~~3. Date of Examination for which special accommodations are requested;~~
- ~~4. Type of disability;~~
- ~~5. Specific accommodations requested, i.e.:~~
 - ~~a. Accessible testing site;~~
 - ~~b. Braille, Large Print, or Tape;~~
 - ~~c. Reader as accommodation for visual impairment;~~
 - ~~d. Scribe/amanuensis as accommodation for learning disability;~~
 - ~~e. Sign Language Interpreter;~~
 - ~~f. Extended Time (time and a-half, double time, other);~~
 - ~~g. Separate testing area;~~
 - ~~h. Use of computer or other adaptive equipment;~~
 - ~~i. Any other accommodations requested; and~~
- ~~6. If the applicant has a learning disability, a psychological disability, or hidden disability that requires an accommodation in testing, an originally signed and dated document must be submitted from an appropriate professional (education professional, doctor, psychologist, psychiatrist) verifying the applicant's disabling condition which requires special accommodations.~~

~~67-006.05 Failed Examination:~~

- ~~1. An examinee who fails to obtain a passing score on the jurisprudence examination and/or vital statistics forms examination may retake the examination during the next regularly scheduled examination date by notifying the Department of his/her intent to retest.~~
- ~~2. An examinee who fails to obtain a passing score on the national examination may retake the examination in accordance with the policies of The International Conference of Funeral Service Examining Boards.~~

~~67-006.06 Notification of Examination Results:~~ The Department will notify an applicant in writing of the licensure examination results within 45 days after the administration of the examination(s).

~~67-007 RENEWAL OF A LICENSE:~~ All licenses issued by the Department pursuant to the Act and these regulations expire on February 1 of each even-numbered year.

~~67-007.01 Renewal Process:~~ Any licensee who wishes to renew his/her license must:

- ~~1. Meet the continuing competency requirements as specified in 172 NAC 67-008;~~

- ~~2. Pay the renewal fee as prescribed in 172 NAC 67-013; and~~
- ~~3. Respond to the following questions:
 - ~~a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?~~
 - ~~b. Have you been convicted of a misdemeanor or felony?~~These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.~~
- ~~4. Cause to be submitted to the Department:
 - ~~a. The renewal notice;~~
 - ~~b. The renewal fee;~~
 - ~~c. Attestation of completing 16 hours of continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;~~
 - ~~d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;~~
 - ~~e. If the licensee has been convicted of a felony or misdemeanor:
 - ~~(1) Official Court Record, which includes charges and disposition;~~
 - ~~(2) Copies of arrest records;~~
 - ~~(3) A letter from the licensee explaining the nature of the conviction;~~
 - ~~(4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - ~~(5) A letter from the probation officer addressing probationary conditions and current status, if the licensee is currently on probation.~~~~~~

~~67-007.02 First Notice: At least 30 days before February 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.~~

~~67-007.02A The renewal notice must specify:~~

- ~~1. The name of the licensee;~~
- ~~2. The licensee's last known address of record;~~
- ~~3. The license number;~~
- ~~4. The expiration date of the license;~~
- ~~5. The renewal fee as prescribed in 172 NAC 67-013;~~
- ~~6. The number of continuing competency hours required for renewal; and~~
- ~~7. The option to place the license on either inactive or lapsed status.~~

~~67-007.02B~~ The licensee must apply for renewal by submitting to the Department:

- ~~1. The renewal notice;~~
- ~~2. The renewal fee;~~
- ~~3. The licensee's social security number;~~
- ~~4. Attestation of completing 16 hours of continuing competency earned within 24 months of the date of expiration and a listing of the continuing competency activities completed or application for waiver of continuing competency; and~~
- ~~5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).~~

~~67-007.02C~~ If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

- ~~1. Request that his/her license be placed on inactive status by submitting to the Department:
 - ~~a. The renewal notice with a check in the box marked inactive; and~~
 - ~~b. The fee of \$25; or~~~~
- ~~2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - ~~a. The renewal notice with a check in the box marked lapsed.~~~~

~~67-007.02D~~ The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

~~67-007.03 Second Notice:~~ The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 67-007.01 that specify:

- ~~1. That the licensee failed to pay the renewal fee;~~
- ~~2. That the license has expired;~~
- ~~3. That the licensee is subject to an administrative penalty under 172 NAC 67-014 if s/he practices after the expiration date;~~
- ~~4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency hours within that time, no order of revocation will be entered; and~~
- ~~5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked as specified in 172 NAC 67-009.~~

~~67-007.03A~~ The licensee must apply for renewal by submitting to the Department:

- ~~1. The renewal notice;~~
- ~~2. The renewal fee and the additional late fee of \$25;~~
- ~~3. The licensee's social security number;~~
- ~~4. Attestation by the licensee:
 - ~~(1) That s/he has not practiced in Nebraska since the expiration of his/her license; or~~
 - ~~(2) To the actual number of days practiced in Nebraska since the expiration of his/her license;~~~~
- ~~5. Attestation of completing 16 hours of continuing competency hours earned within 24 months of the date of expiration and a listing of the continuing competency activities completed or application for waiver of continuing competency; and~~
- ~~6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).~~

~~67-007.03B~~ If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

- ~~1. Request that his/her license be placed on inactive status by submitting to the Department:
 - ~~a. The renewal notice with a check in the box marked inactive; and~~
 - ~~b. The fee of \$25; or~~~~
- ~~2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - ~~a. The renewal notice with a check in the box marked lapsed.~~~~

~~67-007.03C~~ The Department must notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

~~67-007.04~~ When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

~~67-007.05~~ Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and to pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

~~67-007.06~~ When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, ~~172 NAC 67-007.04 and 67-007.05~~ will not apply.

~~67-007.07~~ The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to ~~Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.~~

~~67-007.08~~ An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty pursuant to ~~172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.~~

67-008 CONTINUING COMPETENCY REQUIREMENTS

~~67-008.01~~ General Requirements: On or before February 1st of each even-numbered year, each Funeral Director and Embalmer, Funeral Director, or Embalmer holding an active license in the State of Nebraska must:

- ~~1.~~ Complete at least 16 hours of approved continuing competency hours during the preceding 24-month period.
- ~~2.~~ Take the Jurisprudence Examination at least 1 time every 10 years.

~~67-008.02~~ Continuing Competency Hour/Credit Calculations: The following provides the hour/credit calculations:

- ~~1.~~ Academic Credit: All 16 hours of continuing competency hours per a biennial renewal period may be obtained through academic credit; hours are calculated as follows:
 - ~~a.~~ 1 semester hour of academic credit equals 15 continuing competency hours; and
 - ~~b.~~ 1 quarter hour of academic credit equals 10 continuing competency hours;
- ~~2.~~ Home Study: A maximum of 8 hours of continuing competency hours per a biennial renewal period may be obtained through home study programs.
- ~~3.~~ Continuing Education Workshops: All 16 hours of continuing competency hours per a biennial renewal period may be obtained through continuing education workshops; hours obtained are calculated as follows:
 - ~~a.~~ 60 minutes of participation equals 1 continuing competency hour. Credit will not be awarded for breaks and meals.

- ~~4. Jurisprudence Examination: 4 hours of continuing competency hours will be granted for licensees receiving a score of 75% or above on the jurisprudence examination. A licensee must take the jurisprudence examination at least 1 time every 10 years.~~
- ~~5. Tours: A maximum of 4 hours of continuing competency credit per a biennial renewal period may be obtained through a funeral directing and embalming related tour. Hours are calculated as follows:~~
- ~~a. 60 minutes of tour participation equals 1 continuing competency credit.~~
- ~~6. Exhibits/Displays: A maximum of 4 hours of continuing competency hours per a biennial renewal period may be obtained through a funeral directing and embalming related exhibit/display. Hours are calculated as follows:~~
- ~~a. If a continuing education workshop provides an exhibit or display area, a licensee may earn 1 continuing competency credit per workshop for viewing the exhibits/displays.~~
- ~~7. District/State/National Association Meetings: A maximum of 8 hours of continuing competency hours per a biennial renewal period may be obtained through attendance as a District, State, or National Association Meeting. Hours are calculated as follows:~~
- ~~a. 60 minutes of participation constitutes 1 continuing competency credit. Only 1 hour may be obtained per meeting.~~
- ~~67-008.03 Acceptable Continuing Competency Topic Areas: The Board does not approve continuing competency programs/activities. In order for a continuing competency activity/program to be accepted for renewal or reinstatement of a license, the activity must include one or a combination of the following topic areas:~~
- ~~1. Communication/Media;~~
 - ~~2. Counseling/Arbitration;~~
 - ~~3. Customer relations;~~
 - ~~4. Disaster training;~~
 - ~~5. Embalming practice;~~
 - ~~6. Funeral directing practice;~~
 - ~~7. Management (stress/personnel/business);~~
 - ~~8. Marketing/advertising;~~
 - ~~9. Personal development; or~~
 - ~~10. Pre-need.~~
- ~~67-008.04 Licensee Responsibilities: The licensee is responsible for:~~

- ~~1. Maintaining documentation of attending a continuing competency program/activity and the program/activity outline.~~
- ~~2. If the licensee is a presenter, maintaining documentation of his/her presentation and the program/activity outline. A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program.~~
- ~~3. Submitting to the Department, on the renewal form, attestation of meeting the continuing competency requirements. The completed form must include the following information:
 - ~~a. The title of the program/activity;~~
 - ~~b. The number of hours of approved continuing competency credit received for each program/activity;~~
 - ~~c. The date(s) of the continuing competency program/activity;~~
 - ~~d. The location of the continuing competency program/activity; and~~
 - ~~e. The name of the provider of the continuing competency program/activity.~~~~

~~67-008.05 Exemption from Continuing Competency: If applicable, a licensee must file a request for exemption from the continuing competency requirements pursuant to 172 NAC 67-008.09.~~

~~67-008.06 Board Review: The Board will not renew or reinstate the license of any person who has not complied with the continuing competency requirements of 172 NAC 67-008.01.~~

~~67-008.07 Continuing Education Workshop Criteria: To be considered acceptable for continuing competency, a continuing education workshop must meet the following criteria:~~

- ~~1. The program must be at least 60 minutes in duration;~~
- ~~2. The program's objectives must relate to the topic areas defined in 172 NAC 67-008.03;~~
- ~~3. Presenters of programs must be qualified by education, experience or training;~~
- ~~4. Continuing Education Workshops must be open to all Funeral Directors and Embalmers licensed by Nebraska who meet the pre-requisites for the program; and~~
- ~~5. The program provider must have a process for verifying attendance and issue a certificate of attendance.
 - ~~a. Each certificate must include the following:
 - ~~(1) Program name;~~
 - ~~(2) Name of the participant and his or her license number;~~
 - ~~(3) Provider's name;~~~~~~

- ~~_____ (4) Date the program began and ended; and~~
- ~~_____ (5) Number of hours received by the licensee.~~

~~67-008.08 Criteria for a Home Study Program: To be considered acceptable, a home study program must meet the following criteria:~~

- ~~_____ 1. The home study program's objectives must relate to the topic areas defined in 172 NAC 67-008.03.~~
- ~~_____ 2. The program author(s) of home study programs must meet the following qualifications:
 - ~~_____ a. Have experience in the content and subject matter;~~
 - ~~_____ b. Have expertise in teaching and instructional methods suitable to subject presented; and~~
 - ~~_____ c. Have suitable academic qualifications, certification credentials, and/or experience for subject presented;~~~~
- ~~_____ 3. There must be a post-test.~~

~~67-008.09 Waiver of Continuing Competency: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any 2-year licensing period when a licensee submits documentation that circumstances beyond his/her control prevented the completion of the requirements.~~

~~67-008.09A The circumstances must include situations in which the licensee:~~

- ~~1. Holds a Nebraska license but is not practicing funeral directing and/or embalming in Nebraska; or~~
- ~~2. Has been in the service of the regular armed forces of the United States during any part of the 24 months immediately preceding the license renewal date; or~~
- ~~3. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing competency hours during the 24 months immediately preceding the license renewal date; or~~
- ~~4. Has been first licensed within 24 months immediately preceding the renewal date.~~

~~67-008.09B Application for Waiver of Continuing Competency: Any licensee who seeks a waiver of continuing competency, in part or in total, for any 2-year licensing period must apply to the Department. The Department, on the recommendation of the Board, may waive continuing competency requirements in part or in total for any 2-year period. The licensee must submit:~~

- ~~1. A request for waiver of continuing competency on the renewal application. Only completed applications will be considered, and the Department must receive the application on or before February 1 of the year the license is subject to renewal;~~
- ~~2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing competency requirements as set forth in 172 NAC 67-008.09A must include the following:~~
 - ~~a. If the licensee holds a Nebraska license but is not practicing in Nebraska, s/he must make an appropriate statement in the application;~~
 - ~~b. If the licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application and submit official documentation stating the dates of the service.~~
 - ~~c. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing competency during the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application and submit a statement from a treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and of the recovery period, and that the licensee was unable to attend continuing competency programs during that period.~~
 - ~~d. If the licensee was first licensed within the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application.~~

~~67-008.09C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of the requirements.~~

- ~~1. When the Department determines to deny an application for waiver of continuing competency requirements, it will send to the applicant by certified mail to the last name and address of record in the Department a notice setting forth the reason for the denial determination.~~
 - ~~a. The applicant has 30 days from the date of mailing of the denial notice to make a written request to the Department for a hearing. The hearing will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act.~~
 - ~~b. The Department will issue a final order setting forth the results of the hearing.~~

- ~~2. When the Department determines to grant a waiver of continuing competency requirements, the applicant will be notified within 30 days of receipt of the application.~~

~~67-008.10 Audit of Continuing Competency: The Board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing competency credits. Each licensee must maintain in his/her personal file documentation of attendance received from continuing competency programs. Licensees selected for audit are required to produce satisfactory documentation of his/her attendance.~~

- ~~1. The Department will send a notice of audit to each licensee selected for audit.~~
- ~~2. When selected for audit, the licensee must provide satisfactory documentation of attendance at an approved continuing competency program. Within 30 days of the notice of audit, extension of time may be granted at the discretion of the Department.~~
- ~~3. Failure to provide satisfactory documentation may result in non-renewal of the license.~~
- ~~4. The licensee selected for audit must submit to the Department documentation of meeting the requirements for continuing competency as follows:~~

- ~~a. Copies of attendance certificates;~~
- ~~b. Letters documenting attendance from providers; or~~
- ~~c. Copies of transcripts from educational institutions.~~

- ~~5. Attendance records will not be returned.~~
- ~~6. Failure to notify the Department of a current mailing address will not excuse the licensee from the audit requirement.~~
- ~~7. The Board will notify the licensee upon satisfactory completion of the audit.~~

~~67-009 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department will revoke a license within 30 days of its expiration when the licensee fails to meet the renewal requirements.~~

~~67-009.01 Revocation of License for Non-Payment of Renewal Fee~~

~~67-009.01A When a licensee fails to pay the required renewal fee, to submit proof of continuing competency, and/or to pay an additional fee of \$25 and fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department will automatically revoke the license without further notice or a hearing and make proper record of the revocation.~~

- ~~1. The revocation notice must specify that:~~

- ~~a. The licensee was given a first and second notice of renewal requirements and the respective dates for these notices;~~
- ~~b. The licensee failed to renew the license or to request that his/her license be placed on inactive or lapsed status;~~
- ~~c. The Department has revoked the license;~~
- ~~d. The licensee has a right to appeal the revocation; and~~
- ~~e. The licensee has a right to reinstatement of the license.~~

~~67-009.02 Revocation of License for Failure to Meet Continuing Competency Requirements: When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for licensure renewal, the Department will revoke his or her license after notice and opportunity for a hearing.~~

- ~~1. The revocation notice for failure to meet continuing competency requirements must specify that:~~

- ~~a. The licensee was given a first and final notice of failure to meet the continuing competency requirements and the respective dates of each notice;~~
- ~~b. The licensee failed to renew the license or to have his/her license placed on inactive or lapsed status;~~
- ~~c. The Department will revoke the license within 30 days of date of receipt of the notice unless the licensee requests in writing a hearing;~~
- ~~d. The licensee has a right to appeal the revocation; and~~
- ~~e. The licensee has a right to reinstatement of the license.~~

~~67-010 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.~~

~~67-010.01 Eligibility~~

~~67-010.01A An individual whose credential has been previously:~~

- ~~1. Placed on lapsed status;~~
- ~~2. Placed on inactive status;~~
- ~~3. Revoked for failure to meet the renewal requirements;~~
- ~~4. Suspended or limited for disciplinary reasons; or~~
- ~~5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;~~

~~may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.~~

~~67-010.01B An individual whose credential has been revoked for disciplinary reasons may~~

~~apply for reinstatement only after a period of two years has elapsed from the date of revocation.~~

~~67-010.01C An individual who practices prior to re-credentialing is subject to:~~

- ~~1. Assessment of an Administrative Penalty pursuant to 172 NAC 67-014; and~~
- ~~2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.~~

~~67-010.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have his/her credential restored from lapsed to active status by the Department upon proof to the Department that s/he meets the requirements pursuant to 172 NAC 67-003.~~

~~67-010.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:~~

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 67-014;~~
- ~~2. Initiate disciplinary action against the lapsed credential;~~
- ~~3. Deny the request to restore the credential from lapsed to active status; or~~
- ~~4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~67-010.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:~~

- ~~1. Initiate disciplinary action against the lapsed credential;~~
- ~~2. Deny the request to restore the credential from lapsed to active status;~~
~~or~~
- ~~3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~67-010.02C The Department will act within 150 days on all completed applications.~~

~~67-010.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 67-010.02A and 67-010.02B are final.~~

~~67-010.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that s/he meets the following requirements:~~

- ~~1. Meet renewal requirements, including:~~

- ~~_____ a. The continuing competency requirements; and~~
- ~~_____ b. Paying the renewal fee and any other applicable fees;~~

~~_____ 2. Attest:~~

- ~~_____ a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
- ~~_____ b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.~~

~~_____ 67-010.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:~~

- ~~_____ 1. A written application which contains the following information about the applicant:~~
 - ~~_____ a. Name;~~
 - ~~_____ b. Address;~~
 - ~~_____ c. Social security number; and~~
 - ~~_____ d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;~~
 - ~~_____ e. A statement describing all:
 - ~~_____ (1) Felony or misdemeanor convictions during the time period since the credential was active;~~
 - ~~_____ (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - ~~_____ [1] Official Court Record, which includes charges and disposition;~~
 - ~~_____ [2] Arrest records;~~
 - ~~_____ [3] A letter from the applicant explaining the nature of the conviction;~~
 - ~~_____ [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - ~~_____ [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.~~~~
 - ~~_____ (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;~~
 - ~~_____ (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~
 - ~~_____ (3) Disciplinary charges pending against any professional credential held by the applicant.~~~~
 - ~~_____ f. Verification that the continuing competency requirements for renewal have been met;~~
- ~~_____ 2. The renewal fee and any other applicable fees.~~

- ~~3. Attestation by applicant:~~
- ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.~~

~~67-010.04A If an applicant has practiced while his/her credential was inactive, the Department may:~~

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 67-014;~~
- ~~2. Initiate disciplinary action against the credential;~~
- ~~3. Deny the request to move the credential from inactive to active status; or~~
- ~~4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~67-010.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:~~

- ~~1. Initiate disciplinary action against the credential;~~
- ~~2. Deny the request to move the credential from inactive to active status; or~~
- ~~3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~67-010.04C In either event pursuant to 172 NAC 67-010.04A or 67-010.04B, a notice and the opportunity for hearing will be given to the applicant.~~

~~67-010.04D The Department will act within 150 days on all completed applications.~~

~~67-010.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:~~

- ~~1. Meet the renewal requirements, including:
 - ~~a. The continuing competency requirements; and~~
 - ~~b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;~~~~

- ~~2. Attest:
 - ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.~~~~

~~67-010.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:~~

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - [a] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - [a] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
 - (f) Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35, and any other applicable fees.
3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential:
 - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 67-014 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked,

~~_____ or has committed any other violation of the statutes and
_____ regulations governing the credential, other action may be
_____ taken pursuant to 172 NAC 67-010.06B.~~

~~The Department will forward the application to the Board for its recommendation pursuant to
Neb. Rev. Stat. § 71-110 (5).~~

~~_____ 67-010.06A The Board's recommendation to the Department may be to:~~

- ~~_____ 1. Reinstatement of the credential;~~
- ~~_____ 2. Reinstatement of the credential with terms, conditions or restrictions; or~~
- ~~_____ 3. Denial of reinstatement.~~

~~_____ 67-010.06B Upon receipt of the Board's recommendation, the Department will, within 150
days, send to the applicant a written notice of the Department's response. The Department
may:~~

- ~~1. Reinstatement of the credential. An Administrative Penalty may be assessed
pursuant to 172 NAC 67-014 if warranted;~~
- ~~2. If the Department determines that the applicant has committed acts or
offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department
may:~~

- ~~_____ a. Reinstatement of the credential with terms, conditions, or restrictions. In such
case the applicant will be provided notice and the opportunity for hearing
before the Department pursuant to the Department's Rules of Practice
and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An
Administrative Penalty may be assessed pursuant to 172 NAC 67-014 if
warranted; or~~
- ~~_____ b. Denial of reinstatement. In such case the applicant will be provided notice and
the opportunity for hearing before the Department pursuant to the
Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-
901 to 84-920.~~

~~_____ 67-010.07 Requirements for Reinstatement More Than One Year Following Revocation for
Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more
than one year after revocation for failure to meet the renewal requirements must:~~

- ~~_____ 1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The
petition for reinstatement must be accompanied by:
 - ~~_____ a. Verified recommendations from at least two credentialed practitioners of the
same profession as the petitioner each having personal knowledge of the
activities of the petitioner since the credential was revoked; and~~
 - ~~_____ b. Verified recommendations from at least two citizens each having personal
knowledge of the activities of the petitioner since the credential was revoked.~~~~

- ~~2. Meet the renewal requirements, including:
 - ~~a. The continuing competency requirements; and~~
 - ~~b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.~~~~
- ~~3. Attest:
 - ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.~~~~

~~67-010.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:~~

- ~~1. A petition for reinstatement:
 - ~~a. Stating the reason the petitioner believes his/her credential should be reinstated;~~
 - ~~b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.~~
 - ~~c. Containing the following information about the petitioner:
 - ~~(1) Name;~~
 - ~~(2) Address;~~
 - ~~(3) Social security number; and~~
 - ~~(4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;~~
 - ~~(5) A statement describing all:
 - ~~(a) Felony or misdemeanor convictions during the time period since the credential was active:
 - ~~[1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - ~~[a] Official Court Record, which includes charges and disposition;~~
 - ~~[b] Arrest records;~~
 - ~~[c] A letter from the petitioner explaining the nature of the conviction;~~
 - ~~[d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - ~~[e] A letter from the probation officer addressing probationary conditions and current status, if the~~~~~~~~~~~~

- ~~petitioner is currently on probation.~~
- ~~(b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;~~
- ~~[1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~
- ~~(c) Disciplinary charges pending against any professional credential held by the petitioner.~~
- ~~(6) Verification that the continuing competency requirements for renewal have been met.~~
- ~~2. The renewal fee, the late fee of \$75, and any other applicable fees.~~
- ~~3. Attestation by the petitioner:~~
- ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
- ~~b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.~~
- ~~(1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 67-014 in which case a notice and opportunity for hearing will be sent to the petitioner.~~
- ~~(2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 67-010.08E.~~
- ~~67-010.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.~~
- ~~67-010.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.~~
- ~~67-010.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.~~
- ~~67-010.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.~~
- ~~67-010.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.~~
- ~~67-010.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at~~

~~his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.~~

~~67-010.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.~~

~~67-010.08F1 If the Board recommends reinstatement of the credential, the Department may:~~

~~1. Accept the Board's recommendation and grant reinstatement of the credential.~~

~~2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:~~

~~a. Deny reinstatement of the credential; or~~

~~b. Grant reinstatement with terms, conditions, or restrictions.~~

~~67-010.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~67-010.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:~~

~~1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or~~

~~2. Not accept the Board's recommendation and either:~~

~~a. Deny reinstatement of the credential; or~~

~~b. Grant reinstatement of the credential.~~

~~67-010.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.~~

~~67-010.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~67-010.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or~~

~~Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:~~

- ~~1. Petition the Board for reinstatement:
 - ~~a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and~~
 - ~~b. verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.~~~~
- ~~2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law;~~
- ~~3. If the credential was revoked or suspended, attest:
 - ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.~~~~

~~67-010.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:~~

- ~~1. A petition for reinstatement:
 - ~~a. Stating the reason the petitioner believes his/her credential should be reinstated;~~
 - ~~b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.~~
 - ~~c. Containing the following information about the petitioner:
 - ~~(1) Name;~~
 - ~~(2) Address;~~
 - ~~(3) Social security number; and~~
 - ~~(4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;~~
 - ~~(5) A statement describing all:
 - ~~(a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - ~~[1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - ~~[a] Official Court Record, which includes charges~~~~~~~~~~~~

- ~~_____ and disposition;~~
- ~~_____ [b] Arrest records;~~
- ~~_____ [c] A letter from the petitioner explaining the nature of the conviction;~~
- ~~_____ [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and~~
- ~~_____ [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.~~
- ~~_____ (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;~~
- ~~_____ [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~
- ~~_____ (c) Disciplinary charges pending against any professional credential held by the petitioner;~~
- ~~_____ (6) Any continuing competency activities.~~
- ~~_____ 2. The reinstatement fee of \$75.~~
- ~~_____ 3. Attestation by the petitioner, if the credential was revoked or suspended:~~
 - ~~_____ a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~_____ b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.~~
- ~~_____ (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 67-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.~~
- ~~_____ (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 67-010.10F below.~~

~~_____ 67-010.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:~~

- ~~1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148;~~
- ~~2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete~~

~~diagnostic examination and make available a report or reports thereof to the Board;~~

- ~~3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or~~
- ~~4. Require the petitioner to complete additional education.~~

~~67-010.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.~~

~~67-010.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.~~

~~67-010.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.~~

~~67-010.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition will be granted by the Board if formally requested by the petitioner.~~

~~67-010.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.~~

~~67-010.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of such petition, the Board may grant or deny, without a hearing, any petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.~~

~~67-010.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.~~

~~67-010.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.~~

~~67-010.10G1 If the Board recommends reinstatement of the credential:~~

- ~~1. The Board will send its recommendation to the petitioner by certified~~

~~mail along with notification that the petitioner must file an application for reinstatement with the Director.~~

~~2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.~~

~~a. The application must include:~~

~~(1) Name of the petitioner; and~~

~~(2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.~~

~~3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:~~

~~a. The application;~~

~~b. The written recommendation of the Board, including any finding of fact or order of the Board;~~

~~c. The petition submitted to the Board;~~

~~d. The record of hearing, if any;~~

~~e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.~~

~~4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse, or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.~~

~~a. When the Director affirms, modifies, or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;~~

~~b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~67-010.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:~~

- ~~1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.~~
- ~~2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.~~
 - ~~a. The application must include:
 - ~~(1) Name of the petitioner; and~~
 - ~~(2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.~~~~
- ~~3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - ~~a. The application;~~
 - ~~b. The written recommendation of the Board, including any finding of fact or order of the Board;~~
 - ~~c. The petition submitted to the Board;~~
 - ~~d. The record of hearing, if any;~~
 - ~~e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.~~~~
- ~~4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse, or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.~~
 - ~~a. When the Director affirms, modifies, or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;~~
 - ~~b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~67-010.10G3~~ If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

67-010.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time:

~~67-010.11A~~ Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

~~67-010.11A1~~ An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:

- a. Name;
- b. Address;
- c. Social security number; and
- d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional

~~credential held by the applicant.~~

~~f. Any continuing competency activities.~~

~~g. Attest:~~

~~(1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or~~

~~(2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.~~

~~67-010.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:~~

~~1. Assess an Administrative Penalty pursuant to 172 NAC 67-014;~~

~~2. Initiate disciplinary action against the credential;~~

~~3. Deny the request to restore the credential; or~~

~~4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~67-010.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:~~

~~1. Initiate disciplinary action against the credential;~~

~~2. Deny the request for restoration of the credential; or~~

~~3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~67-010.11A4 In either event pursuant to 172 NAC 67-010.11A2 or 67-010.11A3, a notice and the opportunity for hearing will be given to the applicant.~~

~~67-010.11A5 The Department will act within 150 days on all completed applications.~~

~~67-010.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time~~

~~67-010.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.~~

~~67-010.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 67-014.~~

~~67-010.13 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.~~

67-011 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

~~67-011.01~~ The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 67-003 or is found to be in violation of any of the provisions of 172 NAC 67-011.03.

~~67-011.02~~ The Department will refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 67-007.

~~67-011.03~~ The Department may deny, refuse renewal of, revoke, limit, suspend, or take other disciplinary measures against a license or an application for a license to practice funeral directing and embalming pursuant to Neb. Rev. Stat. § 71-155 if the applicant or licensee is found guilty of any of the acts or offenses specified in Neb. Rev. Stat. § 71-147 and 71-148 and any of the following grounds:

- ~~1. Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license, certificate, or registration;~~
- ~~2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;~~
- ~~3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01.~~
- ~~4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's, certificate holder's, or registrant's fitness or capacity to practice the profession;~~
- ~~5. Practice of the profession
 - ~~a. fraudulently,~~
 - ~~b. beyond its authorized scope,~~
 - ~~c. with manifest incapacity,~~
 - ~~d. with gross incompetence or gross negligence, or~~
 - ~~e. in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;~~~~
- ~~6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;~~
- ~~7. Physical or mental incapacity to practice the profession as evidenced by a legal~~

~~adjudication or a determination thereof by other lawful means;~~

- ~~8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate, or registration by a person not licensed, certified, or registered to do so;~~
- ~~9. Having had his/her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked or having had such license, certificate, or registration disciplined in any other manner in accordance with Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant, licensee, certificate holder, or registrant similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration or the taking of other disciplinary measures against it by another state or jurisdiction is conclusive evidence;~~
- ~~10. Unprofessional conduct, which term includes all acts specified in Neb. Rev. Stat. § 71-148;~~
- ~~11. Use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims, concerning such licensee's, certificate holder's, or registrant's professional excellence or abilities, in advertisements;~~
- ~~12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;~~
- ~~13. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;~~
- ~~14. Willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the Department relating to the licensee's, certificate holder's, or registrant's profession, sanitation, quarantine, or school inspection;~~
- ~~15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee, certificate holder, or registrant is not licensed, certified, or registered to practice;~~
- ~~16. Failure to comply with Neb. Rev. Stat. §§ 71-604, 71-605, and 71-606 relating to the signing of birth and death certificates;~~
- ~~17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;~~
- ~~18. Failure to file a report required by Neb. Rev. Stat. § 71-168.~~

~~67-011.04~~ The Department may deny, refuse renewal of, revoke, limit, suspend, or take other disciplinary measures against a license or an application for a license to practice funeral directing and embalming pursuant to Neb. Rev. Stat. § 71-155 if the applicant or licensee is found guilty of any of the following acts or offenses:

- ~~1. Solicitation of dead human bodies by the licensee or his/her agents, assistants, or employees, either prior to or following death;~~
- ~~2. The purchasing of funeral or embalming engagements or the payment of a commission either directly or indirectly or offer of payment of such commission to any agent, assistant, or employee for the purpose of securing business;~~
- ~~3. Using indecent, profane, or obscene language in the presence of a dead human body or within the immediate presence or hearing of the family, relatives, or friends of the deceased prior to the burial of the deceased;~~
- ~~4. Soliciting or accepting any remuneration, commission, bonus, or rebate in consideration of the recommending or causing a dead human body to be placed in any crematory, mausoleum, or cemetery;~~
- ~~5. Using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the shipment, burial, or other disposition of a dead human body without first identifying such item as used;~~
- ~~6. Violations of any state law, municipal ordinance, or rule or regulation of the Department or other body having regulatory powers, relating to the handling, custody, care, or transportation of dead human bodies;~~
- ~~7. Refusal to surrender promptly the custody of a dead human body upon request of a person or persons lawfully entitled to the custody thereof; or~~
- ~~8. Taking undue advantage of a patron or patrons, or being found guilty of fraud, or misrepresentation in the selling of merchandise or service to patrons.~~

~~67-011.04A~~ An applicant or a licensee will be subject to the penalty provisions of 172 NAC 67-011.04 if found guilty of any of the following:

- ~~1. Paying, directly or indirectly, any money or other thing of value as a commission or gratuity for the securing of business;~~
- ~~2. The buying of a business of any person, firm, or corporation, or the paying of a commission to any person, firm, or corporation or to any hospital or any institution where death occurs or to any hospital superintendent, nurse, intern, or other employee, whether directly or indirectly; or~~

~~3.—Willful malpractice.~~

~~Any Funeral Director and Embalmer who commits any of the acts or things prohibited by this section or otherwise violates any of the provisions thereof shall be guilty of a Class II misdemeanor.~~

~~67-011.04B—These regulations do not prohibit a licensed Funeral Director and Embalmer from engaging in sales of funeral goods or services pursuant to the Burial Pre-Need Sale Act.~~

~~67-011.04C—A license, certificate, or registration to practice a profession may also be refused renewal or revoked when the licensee, certificate holder, or registrant is guilty of practicing such profession while his/her license, certificate, or registration to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his or her license, certificate, or registration.~~

~~67-011.04D—Except in cases of failure to pay the required fees, no license will be denied, suspended, limited, refused renewal, or revoked except after due notice and opportunity for a hearing. Disciplinary actions and proceedings will be conducted as specified in the Uniform Licensing Law. Any denial, suspension, limitation, refusal of renewal, or revocation of such license may be appealed, and the appeal will be in accordance with the Administrative Procedure Act. A person whose license has been revoked, suspended, or limited may petition the Board for reinstatement in the manner provided by Neb. Rev. Stat. §§ 71-161.04 to 71-161.06.~~

67-012 UNPROFESSIONAL CONDUCT

~~67-012.01—For purposes of Neb. Rev. Stat. § 71-147, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest.~~

~~67-012.02—Nothing in this section will be construed to exclude determination of additional conduct that is unprofessional by adjudication in individual contested cases.~~

67-013 SCHEDULE OF FEES: The following fees have been set by the Department:

~~67-013.01—Initial License Fee:—By an applicant for a license to practice funeral directing and embalming, the fee of \$25 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal.~~

~~67-013.02—Pro-rated Initial License Fee:—For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.~~

~~67-013.03 Apprentice Registration Fee: By an applicant for a registration to practice as an apprentice, the fee of \$10.~~

~~67-013.04 License Renewal Fee: By an applicant for renewal on a basis of a license to practice:~~

- ~~1. Funeral Directing and Embalming, the fee of \$25 and the Licensee Assistance Program fee of \$2.~~
- ~~2. Funeral Directing, the fee of \$15 and the Licensee Assistance Program fee of \$2.~~
- ~~3. Embalming, the fee of \$15 and the Licensee Assistance Program fee of \$2.~~

~~67-013.05 Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.~~

~~67-013.06 Renewal Late Fee: By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.~~

~~67-013.07 Certification of License/Registration Fee: For issuance of a certification of a license or registration, the fee of \$25. The certification includes information regarding:~~

- ~~1. The basis on which a license or registration was issued;~~
- ~~2. The date of issuance;~~
- ~~3. Whether disciplinary action has been taken against the license or registration;
and~~
- ~~4. The current status of the credential.~~

~~67-013.08 Verification of License/Registration Fee: For issuance of a verification of a license or registration, the fee of \$5. The verification includes written confirmation as to whether a license or registration was valid at the time the request was made.~~

~~67-013.09 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.~~

~~67-013.10 Administrative Fee: For a denied license or registration or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the licensing or registration fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.~~

~~67-013.11 Reinstatement Late Fee: For reinstatement of a license for failure to meet renewal requirements:~~

- ~~1. Within one year, the fee of \$35 in addition to the renewal fee.~~
- ~~2. After one year of revocation, the fee of \$75 in addition to the renewal fee.~~

~~77-013.12 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.~~

~~67-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practiced without a credential. Practice without a credential for the purpose of this regulation means practice:~~

- ~~1. Prior to the issuance of a credential;~~
- ~~2. Following the expiration of a credential; or~~
- ~~3. Prior to the reinstatement of a credential.~~

~~67-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:~~

- ~~1. The person admits to engaging in practice;~~
- ~~2. cation.g records or other reports from the employer of the person indicate that the person was engaged in practice;~~
- ~~3. Billing or payment records document the provision of service, care, or treatment by the person;~~
- ~~4. Service, care, treatment records document the provision of service, care, or treatment by the person;~~
- ~~5. Appointment records indicate that the person was engaged in practice; and~~
- ~~6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.~~

~~For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.~~

~~67-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:~~

- ~~1. Provide written notice of the assessment to the person. The notice must specify:
 - ~~a. The total amount of the administrative penalty;~~
 - ~~b. The evidence on which the administrative penalty is based;~~
 - ~~c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;~~
 - ~~d. That the Department will within 30 days following receipt of payment of the administrative penalty transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and~~
 - ~~e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.~~~~
- ~~2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.~~

Effective Date
01/19/2005

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 67

~~67-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and 184 NAC 1, Rules of Practice and Procedure.~~

Approved by the Attorney General: _____ December 13, 2004

Approved by the Governor: _____ January 13, 2005

Filed with the Secretary of State: _____ January 14, 2005

EFFECTIVE DATE: _____ **January 19, 2005**

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 68 LICENSURE OF FUNERAL ESTABLISHMENTS AND BRANCH ESTABLISHMENTS

68-001 SCOPE AND AUTHORITY: These regulations govern the licensure of funeral establishments and branch establishments under the Funeral Directing and Embalming Practice Act and the Uniform Credentialing Act.

68-002 DEFINITIONS: For purposes of these regulations, definitions in the Uniform Credentialing Act and the Funeral Directing and Embalming Practice Act and the following definitions are hereby adopted.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

68-003 ESTABLISHMENT LICENSE: Any person who wishes to operate a branch establishment or Funeral Establishment must obtain an establishment license.

Funeral establishments may be licensed for one or a combination of the following services:

1. The care and preparation of dead human bodies for burial, disposition, or cremation;
2. Conducting funeral services for dead human bodies; or
3. Arranging funeral services for dead human bodies.

Branch establishments may be licensed if they are a subsidiary of a licensed funeral establishment and must include an area where any portion of the funeral service or arrangements for the disposition of a dead human body is conducted and must include at least one or a combination of the following rooms/areas:

1. A casket display room; or
2. A viewing area; or
3. An area for conducting funeral services.

68-003.01 Qualifications: To receive a license, an individual must submit a complete application, pay the appropriate fee, and meet the following:

1. Manager License: The proposed manager must have a current active Nebraska

Funeral Director's or Funeral Director and Embalmer's license;

2. Good Character: The proposed manager must have good character;
3. Citizenship/Lawful Presence: The manager and owner, if the owner is a sole proprietor, must be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a license under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a license under the Uniform Credentialing Act; and
4. Self-Evaluation: Complete a self-evaluation inspection report showing compliance with 172 NAC 68-008 and, if applicable, 172 NAC 68-009; and

68-003.02 Branch Establishment: If the application is for a branch establishment, the branch establishment must be a subsidiary of a licensed funeral establishment.

68-003.03 Denied or Withdrawn Applications

68-003.03A Denied Applications: An applicant for a funeral establishment or branch establishment license whose application is denied by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

68-003.03B Withdrawn Applications: An applicant for a funeral establishment or branch establishment license may request to withdraw the application. A request to withdraw an application will be granted:

1. When the application is incomplete; or
2. When the request for withdrawal is received within five business days of the receipt of a completed application.

If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

68-003.04 License Not Transferable: A license is issued only for the premises and manager named in the application and is not transferable or assignable.

68-003.05 License Display: The establishment license must be conspicuously displayed in the branch establishment and/or funeral establishment.

68-003.06 Establishment Manager Responsibilities: The designated manager is responsible for all transactions conducted at the establishment, in compliance with the statutes, rules and regulations relating to funeral directing and embalming and establishments.

68-004 AMENDED LICENSE FOR EXISTING ESTABLISHMENTS. An establishment license is issued only for the premises, the owner and manager named in the application and is not transferable or assignable. An establishment may amend its license as follows:

68-004.01 Change in Establishment Manager: The applicant must apply to the Department for and obtain another license at least 15 days prior to the change in manager and submit the required fee for a reissued license.

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 Rules and Regulations 172 NAC 67 and 172 NAC 68. Such exception terminates after the 5-day period.

68-004.02 Change in Establishment Name: The applicant must apply to the Department for and obtain another license at least 30 days prior to the change in name and submit the required fee for a reissued license.

68-004.03 Change in Owner: The applicant must apply to the Department for and obtain another license at least 15 days prior to the change in owner and submit the required fee for a reissued license.

68-004.04 Change of Establishment Location: The applicant must apply to the Department for and obtain another license as specified in 172 NAC 68-003 at least 30 days prior to the change.

68-004.05 Change in Services Provided - 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 a dead human bodies for burial, disposition or cremation, the applicant must:

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

68-005 ORGANIZED OR SCHEDULED FUNERAL SERVICES AND AUTHORIZED SERVICES BY UNLICENSED PERSONS AND STUDENTS IN MORTUARY SCHOOLS:

1. 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 internment, whenever a dead human body is present. No person who is not licensed as a funeral director and embalmer or serving as an apprentice can embalm dead human bodies for burial or cremation.

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/her supervision and responsibility.

These activities include:

- a. Driving/maintenance of funeral vehicles and facilities;
 - b. Administrative duties;
 - c. Applying cosmetics;
 - d. Arranging or shampooing the hair of the deceased;
 - e. Ceremonial assistance (such as bathing, clothing/dressing and casketing the deceased body) and;
 - f. Religious services pursuant to 68-005, item 1.
2. Persons may, at the direction of a licensed funeral director and embalmer, make first calls or removals of dead human bodies. Exception: Instances in which removals are performed by public authorities in emergency situations.
 3. A student may participate in a student practicum/internship in a licensed funeral establishment in Nebraska, if the student's school is accredited by and in good standing with the American Board of Funeral Service Education (ABFSE). The student may assist with funeral directing and embalming services when the student is in a recognized practicum/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.

68-006 TRANSPORTATION AND FINAL DISPOSITION OF DEAD HUMAN BODIES

68-006.01 Communicable Disease: Persons who have died due to communicable diseases such as cholera, typhus, plague, shigellosis or hemorrhagic fever must be completely wrapped before removal from the premises.

1. Bodies dead of communicable diseases listed in 172 NAC 68-006.01 must be thoroughly and promptly embalmed and will be held in isolation from the public for a period of 24 hours following the embalming.
2. All bodies dead of any of the communicable diseases listed in 172 NAC 68-006.01 which are not promptly and completely embalmed must be 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.
3. This rule does not prohibit a public funeral, nor does it relieve persons who are quarantined as contacts from quarantine requirements.

Persons who have died due to a communicable disease other than those listed in 172 NAC 68-006.01 require no further special handling if they are embalmed.

68-006.02 Out-of-State Transportation: In case 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.

68-006.03 In-State Transportation of Bodies.

1. Un-Embalmed Bodies:

- a. Dead human bodies, which have not been embalmed, must not be transported by common carrier. Transportation may be made by privately owned conveyance under the supervision and responsibility of a licensed Funeral Director.
- b. In the event 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, the body may be transported, in the same manner as an embalmed body.

2. Embalmed Bodies: There are no additional restrictions to the transportation of embalmed bodies other than those contained in the existing Nebraska statutes, provided the body is embalmed by arterial and cavity injection using current accepted practices and chemicals.

- a. Exception: In the event the remains are to be sent to the State Anatomical Board, cavity work should be avoided when possible.

68-006.04 General Rules Relating to Embalmed Bodies, Un-Embalmed Bodies and Final Disposition of Dead Human Bodies.

68-006.04A Un-Embalmed Body: An un-embalmed body may be retained in storage at a constant temperature of less than 40 degrees Fahrenheit for not more than 96 hours from receipt of the deceased body. An un-embalmed body may be retained in storage beyond the 96 hours if:

1. Written notification of a criminal proceeding is received; or
2. Upon receipt of a court order.

When such a body is removed from storage it must be embalmed, buried, or cremated within 24 hours following the removal from storage.

68-006.04B Embalmed: Final disposition of a dead human body, which has been embalmed, 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.

1. Exception: 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 special permission from the Director of the Division of Public Health to extend the final disposition date.
 - a. To attain special permission, the license holder must submit a written request to the Division, stating the following:
 - i. Name of Funeral Establishment and license holder overseeing the final disposition;
 - ii. Name of the deceased;
 - iii. Date of death of the deceased; and
 - iv. 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.
 - b. 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.

68-007 FUNERAL ESTABLISHMENT AND BRANCH ESTABLISHMENT INSPECTIONS: All establishments will receive an initial and thereafter a routine inspection. The inspection will include compliance with 172 NAC 68-008.

68-007.01 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.

68-007.02 Initial On-Site Inspection: The Department will conduct an on-site unannounced inspection within 90 days following issuance of an initial establishment license.

68-007.03 Timing of Inspections: The Department may conduct an on-site unannounced inspection at any time it deems necessary.

68-007.04 Focused Selection Inspections: The Department may conduct an unannounced inspection of an establishment when the Department is informed of one or more of the following:

1. The passage of 6 years without an inspection;

2. A complaint alleging a violation of statutes and/or regulations relating to funeral establishments and branch establishments;
3. Change of services or location; and
4. Any other event that raises concerns about the maintenance or management of the establishment.

68-008 FUNERAL ESTABLISHMENT REQUIRED DOCUMENTS, PHYSICAL STRUCTURE AND EQUIPMENT/SUPPLIES: A funeral establishment must have the following:

68-008.01 Documents: Documents must be posted and/or available as follows:

1. The current license of the funeral establishment must be conspicuously displayed;
2. The current license of the manager and all licensed embalmers, registered apprentices, licensed funeral directors and licensed funeral directors and embalmers employed by the funeral establishment must be conspicuously displayed;
3. A sign which displays the name of the current or proposed funeral 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, or provide documentation that it is on order; and
4. Copies of written statements containing a list of principal services and furnishings to be supplied by the funeral director or funeral director and embalmer for the preparation and burial or cremation of a deceased body (i.e., general price list).

68-008.02 Physical Structure: The physical structure must be maintained to ensure safety of the public and to ensure compliance with the equipment and sanitation requirements.

1. Conducting Funeral Services: If services will include conducting funeral services for dead human bodies, the funeral establishment must have:
 - a. Room(s) for:
 - (1) Counseling families or next of kin;
 - (2) Conducting the funeral service; and
 - (3) Viewing the deceased.

The room(s) must have 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. The room(s):

- (1) Must have space for public seating;

- (2) Must have space for viewing the deceased body; and
 - (3) May have an adjacent area for cosmetic services and dressing of the deceased body for viewing purposes.
- b. A casket selection area, which has either a catalogue or electronic media for ordering caskets, or has sample caskets displayed.
 - c. Motor vehicles, such as, but not limited to: funeral coach, sedans and vans.
 - d. A general price list (GPL).
2. Preparation for Final Disposition: If services include the care and preparation for burial, disposition or cremation, the funeral establishment must include:
- a. A preparation room for preparing dead human bodies for burial or other final disposition which has floor to ceiling walls on all sides. The preparation room must be clean and sanitary and contain at a minimum the following:
 - (1) Flooring and walls that are cleanable, such as tile or other suitable hard surface;
 - (2) Adequate drainage, lighting and ventilation;
 - (3) At least one sink with running water;
 - (4) At least one service sink or floor drain for use of drainage from the embalming table and for use with the aspirator;
 - (5) Fully closing doors;
 - (6) The following instruments and supplies with ample storage thereof:
 - (a) Head covers;
 - (b) Shoe covers;
 - (c) Goggles;
 - (d) Masks;
 - (e) Heavy duty or surgical gloves;
 - (f) Disinfectant spray;
 - (g) Adequate materials for use with contagious diseases (contagious disease kit);
 - (h) Embalming Gown with sleeves;
 - (i) Porcelain or stainless steel embalming table;
 - (j) Embalming machine;
 - (k) Hydro or electrical aspirator with arterial tubes and drain tubes;
 - (l) Pair of spring forceps;
 - (m) Aneurysm needles;
 - (n) Pair of scissors;
 - (o) Different sizes of suture needles;
 - (p) Scalpel with extra blades;

- (q) Razor with extra blades;
- (r) Trocar with suitable length of hose;
- (s) Cavity Fluid Injector;
- (t) Sanitary and medical waste container;
- (u) Arm and head supports; and
- (v) Cavity, special and arterial fluids.

68-008.02A 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.

68-008.02B Bandages, cotton, and other waste materials must be destroyed or placed in the bio-waste receptacle for removal by a waste removal service immediately at the conclusion of each case to the end that all disease-producing organisms are destroyed and the public health thereby protected.

68-008.02C 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 to the end that all disease producing organisms are destroyed and the public health thereby protected.

68-009 BRANCH ESTABLISHMENT REQUIRED DOCUMENTS, PHYSICAL STRUCTURE AND CASKET SELECTION AREA. A branch establishment must have the following:

68-009.01 Documents: Documents must be posted and/or available as follows:

1. The current license of the funeral establishment must be conspicuously displayed;
2. The current license of the manager and all licensed funeral directors and licensed funeral directors and embalmers employed by the funeral establishment must be conspicuously displayed;
3. A sign which displays the name of the current or proposed branch establishment. The sign must be located on or at the front of the building in such a position where it clearly is visible and legible from the outside of the building, or provide documentation that it is on order; and
4. If funeral arrangements are made at the branch location, copies of written statements containing a list of principal services and furnishings to be supplied by the funeral director or funeral director and embalmer for the preparation and burial or cremation of a deceased body (i.e., general price list).

68-009.02 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:

1. Adequate ventilation;
2. Adequate lighting to maintain public safety; and
3. If viewing of the deceased body is provided at the branch location, the viewing room(s) must have floor to ceiling walls on all sides;

68-009.03 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.

68-010 CLOSING AN ESTABLISHMENT: When an establishment manager anticipates closing an establishment, the Department must be notified in writing of the closing date. The Department will then change its records to reflect the current status of the establishment.

The establishment must retain its pre-need records in compliance with the Burial Pre-Need Sale Act and upon closing the establishment, it must forward said records to another funeral establishment in Nebraska. The establishment must remove all signage relating to the name of the funeral establishment or branch establishment upon its closing.

68-011 RENEWAL An individual who wants to renew his/her license to operate as a funeral establishment or branch establishment must, prior to the expiration date of February 1, of even-numbered years, file an application for renewal and pay the fee.

68-012 DISCIPLINARY ACTION

68-012.01 Grounds for Discipline: A branch establishment or funeral establishment license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. §38-182, 38-1423 or 38-1424 and the following:

1. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department.

68-013 REAPPLICATION: This section applies to establishments previously credentialed in Nebraska who seek the authority to return to operation in Nebraska with a valid Nebraska license.

1. An establishment whose license has expired, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons may apply at any time to the Department for and obtain another license as specified in 172 NAC 68-003.

2. An establishment whose license has been voluntarily surrendered for a definite period may apply after that period of time has elapsed, to the Department for and obtain another license as specified in 172 NAC 68-003.
3. An establishment whose license has been revoked may apply for another license, only after a period of two years has elapsed from the date of revocation, to the Department for and obtain another license as specified in 172 NAC 68-003.
4. An individual whose license has been permanently voluntarily surrendered may not apply for another license.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

68-014 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

Effective Date
01/19/2005

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATIONS AND LICENSURE

172 NAC 68

TITLE 172 — PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 68 — BRANCH ESTABLISHMENTS AND FUNERAL ESTABLISHMENTS

~~68-001 SCOPE AND AUTHORITY:~~ These regulations apply to licensure of branch establishments and funeral establishments as defined by Neb. Rev. Stat. §§ 71-1301 to 71-1306 and §§ 71-1326 to 71-1354 and the Uniform Licensing Law.

68-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-1301 to 71-1306 and §§ 71-1326 to 71-1354 commonly known as the Practice of Funeral Directing and Embalming.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Funeral Directing and Embalming.

Branch Establishment means a place of business situated at a specific street address or location which is a subsidiary of a licensed funeral establishment, which contains a casket display room, a viewing area, or an area for conducting funeral services, or all of them, and where any portion of the funeral service or arrangements for the disposition of a dead human body is conducted.

Burial means placing of a dead human body into a grave, tomb, crypt, mausoleum, or other final receptacle.

Casket means a receptacle for a dead human body and does not include vaults, lawn crypts, mausoleums, or other outside receptacles for caskets.

Completed Application means an application with all of the information requested on the application, the signature of the applicant, fees and all required documentation submitted.

Cremation means the technical process that uses heat and evaporation to reduce human remains to bone fragments.

Department means the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Disposition means entombment, burial, cremation or other means as approved by the Board.

~~Division means the Credentialing Division of the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.~~

~~Electric aspirator means an electrically powered aspirator which pulls material through the pump and discharges it into a flush bowl.~~

~~Establishment means a branch establishment or a funeral establishment.~~

~~Funeral Establishment means a place of business situated at a specific street address or location, devoted to the care and preparation for burial, disposition, or cremation or to conducting or arranging funeral services for dead human bodies.~~

~~Funeral Services means any rite or ceremony pertaining to a dead human body.~~

~~Hydro aspirator means an aspirator, which uses water pressure through an adapter on a water faucet. It must have at least 2 vacuum breakers to prevent back siphoning into the water system.~~

~~Manager means the person named on the establishment license and who has full responsibility of all transactions of the establishment.~~

~~NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 68.~~

~~Preparation Room means a facility entirely enclosed by walls, floors and ceiling, at least 150 square feet, and used for the preparation of dead human bodies for final disposition.~~

~~Verified means sworn to before a Notary Public.~~

~~68-003 REQUIREMENTS FOR ISSUANCE OF A BRANCH ESTABLISHMENT OR FUNERAL ESTABLISHMENT LICENSE: Any person who wishes to operate a Branch Establishment or Funeral Establishment must obtain a license. Funeral establishments may be licensed for one or a combination of the following services:~~

- ~~1. The care and preparation for burial, disposition, or cremation;~~
- ~~2. Conducting funeral services for dead human bodies; or~~
- ~~3. Arranging funeral services for dead human bodies.~~

~~The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.~~

~~68-003.01 Initial Establishment Licensure Requirements~~

~~68-003.01A Requirement: An applicant for an initial license to operate an establishment must meet the following:~~

- ~~1. Have a current active Nebraska Funeral Director's or Funeral Director and Embalmer's license and be the proposed manager;~~
- ~~2. The proposed manager must have good moral character;~~
- ~~3. If the application is for a branch establishment, the branch establishment must be affiliated with a funeral establishment;~~
- ~~4. Have received a successful rating on the initial inspection; and~~
- ~~5. Submit the application at least 30 days before the anticipated opening date to allow for an initial inspection to be conducted.~~

~~68-003.01B Application Process: The following must be submitted to the Department:~~

- ~~1. A completed application on Attachment A attached to these regulations and incorporated by this reference. The application must specify the types(s) of services to be provided. Only applications which are complete will be considered;~~
- ~~2. Attestation by the applicant:
 - ~~a. That s/he has not operated this establishment in Nebraska prior to the application for a license; or~~
 - ~~b. To the actual number of days operated this establishment in Nebraska prior to the application for a license;~~~~
- ~~3. Conviction and Licensure Information Relating to the Manager:
 - ~~a. If the manager has been convicted of a misdemeanor or felony:
 - ~~(1) Official Court Record, which includes charges and disposition;~~
 - ~~(2) Copies of arrest records;~~
 - ~~(3) A letter from the applicant explaining the nature of the conviction;~~
 - ~~(4) All addiction/mental health evaluations and proof of treatment;~~
 - ~~(5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~~~
 - ~~b. If the manager holds a license in another state(s), the name of such state(s);~~
 - ~~c. If any disciplinary action was taken against the manager's license by another state, an official copy of the disciplinary action, including charges and disposition; and~~~~
- ~~4. Identify the type of service(s) to be provided; and~~

- ~~5. The required license fee.~~

~~68-003.01C Department Responsibilities: The Department will:~~

- ~~1. Review the application to determine completeness;~~
- ~~2. Acknowledge receipt of the application by means of a written letter to the applicant with a copy to the appropriate establishment inspector;
 - ~~a. The inspector will contact the applicant and schedule an inspection to be completed prior to the anticipated opening date. The results of the inspection will be recorded on an inspection form provided by the Department.~~~~
- ~~3. Administrative Penalty/Other Action: Assess an Administrative Penalty pursuant to 172 NAC 68-018, or such other action as provided in the statutes and regulations governing the credential to an individual who operates an establishment prior to issuance of a credential; and~~
- ~~4. Issue an establishment license to each establishment which meets the requirements as defined in this section, within 150 days of receipt of a completed application. The license will indicate the types of services provided by the funeral establishment.~~

~~68-003.02 Amended License for Existing Establishments: Any establishment may amend its license, due to a change in establishment manager, name of the establishment, change in location of the establishment, change of services provided, or change in the manager due to the death of the manager. The criteria for issuance of an amended license and the documentation required by the Department and the Board are set forth below.~~

~~68-003.02A Change in Establishment Manager or Establishment Name~~

~~68-003.02A1 Requirements: An applicant for an amended license to operate an establishment, due to a change of manager or establishment name, must:~~

- ~~1. Have a current active Nebraska Funeral Director's or Funeral Director and Embalmer's license and be the proposed manager;~~
- ~~2. If applying for a change in manager, the manager must:
 - ~~a. Be of good moral character;~~
 - ~~b. Surrender the original license of the establishment; and~~~~
- ~~3. Submit the application at least 15 days before the anticipated change.~~

~~68-003.02A2 Application Process:~~ The following must be submitted to the Department:

- ~~1. A completed application on Attachment B attached to these regulations and incorporated by this reference. Only applications, which are complete, will be considered;~~
- ~~2. If a manager change, the original license of the establishment;~~
- ~~3. Conviction and Licensure Information Relating to the Manager:
 - ~~a. If the manager has been convicted of a misdemeanor or felony:
 - ~~(1) Official Court Record, which includes charges and disposition;~~
 - ~~(2) Copies of arrest records;~~
 - ~~(3) A letter from the applicant explaining the nature of the conviction;~~
 - ~~(4) All addiction/mental health evaluations and proof of treatment;~~
 - ~~(5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~~~
 - ~~b. If the manager holds a license in another state(s), the name of such state(s);~~
 - ~~c. If any disciplinary action was taken against the manager's license by another state, an official copy of the disciplinary action, including charges and disposition; and~~~~
- ~~4. The required license fee.~~

~~68-003.02A3 Department Responsibilities:~~ The Department will:

- ~~1. Review the application to determine completeness; and~~
- ~~2. Issue an establishment license to each establishment which meets the requirements as defined in this section, within 150 days of receipt of a completed application.~~

~~68-003.02B Change in Manager Due to the Death of a Manager~~

~~68-003.02B1 Requirements:~~ An applicant for an amended license due to the death of a manager of a funeral establishment must:

- ~~1. Have a current active Nebraska Funeral Director's or Funeral Director and Embalmer's license and be the proposed manager;~~

~~2. The manager must:~~

- ~~a. Be of good moral character;~~
- ~~b. Surrender the original license of the establishment; and~~

~~3. Submit the application immediately following the death of the manager.~~

~~68-003.02B2 Application Process: The following must be submitted to the Department:~~

~~1. A completed application on Attachment B. Only applications which are complete will be considered;~~

~~2. The required license fee;~~

~~3. The original license of the establishment;~~

~~4. A copy of the death certificate of the previous manager of the establishment; and~~

~~5. Conviction and Licensure Information Relating to the Manager:~~

~~a. If the manager has been convicted of a misdemeanor or felony:~~

~~(1) Official Court Record, which includes charges and disposition;~~

~~(2) Copies of arrest records;~~

~~(3) A letter from the applicant explaining the nature of the conviction;~~

~~(4) All addiction/mental health evaluations and proof of treatment;~~

~~(5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~

~~b. If the manager holds a license in another state(s), the name of such state(s);~~

~~c. If any disciplinary action was taken against the manager's license by another state, an official copy of the disciplinary action, including charges and disposition.~~

~~68-003.02B3 Department Responsibilities: The Department will:~~

~~1. Review the application to determine completeness; and~~

- ~~2. Issue an establishment license to each establishment, which meets the requirements as defined in this section, within 150 days of receipt of a completed application.~~

~~68-003.02C Change of Establishment Location~~

~~68-003.02C1 Requirements: An applicant for an amended license, due to a change in the establishment's location, must:~~

- ~~1. Have a current active Nebraska Funeral Director's or Funeral Director and Embalmer's license and be the proposed manager;~~
- ~~2. Have received a successful inspection rating within 30 days of the anticipated opening date; and~~
- ~~3. Submit the application at least 30 days before the anticipated opening date to allow for an inspection to be conducted.~~

~~68-003.02C2 Application Process: The following must be submitted to the Department:~~

- ~~1. A completed application on Attachment B. Only applications which are complete will be considered;~~
- ~~2. Attestation by the applicant:
 - ~~a. That s/he has not operated this establishment in Nebraska prior to the application for a license; or~~
 - ~~b. To the actual number of days operated this establishment in Nebraska prior to the application for a license; and~~~~
- ~~3. The required license fee.~~

~~68-003.02C3 Department Responsibilities: The Department will:~~

- ~~1. Review the application to determine completeness;~~
- ~~2. Acknowledge receipt of the application by means of a written letter to the applicant with a copy to the appropriate establishment inspector;
 - ~~a. The inspector will contact the applicant and schedule an inspection to be completed prior to the anticipated opening date. The results of the inspection will be recorded on a form provided by the Department; and~~~~
- ~~3. Administrative Penalty/Other Action: Assess an Administrative Penalty pursuant to 172 NAC 68-018 or such other action as provided in the statutes and regulations governing the credential to an individual who~~

~~operates an establishment which has changed the location prior to issuance of a credential; and~~

- ~~4. Issue an establishment license to each establishment which meets the requirements as defined in this section, within 150 days of receipt of a completed application. The license will indicate the types of services provided by the funeral establishment.~~

~~68-003.02D Change in Types of Services Provided~~

~~68-003.02D1 Requirements:~~ ~~An applicant for an amended license, due to a change in the establishment's services either adding or deleting the services of care and preparation for burial, disposition, or cremation or conducting or arranging funeral services for dead human bodies, must:~~

- ~~1. Have a current active Nebraska Funeral Director's or Funeral Director and Embalmer's license and be the proposed manager;~~
- ~~2. Have received a successful inspection rating within 30 days of the anticipated change in services if the establishment will be providing the care and preparation for burial, disposition, or cremation — an inspection is not required if the establishment will be conducting or arranging funeral services for dead human bodies; and~~
- ~~3. Submit the application at least 30 days before the anticipated change in services to allow for an inspection to be conducted.~~

~~68-003.02D2 Application Process:~~ ~~The following must be submitted to the Department:~~

- ~~1. A complete application on Attachment A; and~~
- ~~2. The required license fee.~~

~~68-003.02D3 Department Responsibilities:~~ ~~The Department will:~~

- ~~1. Review the application to determine completeness;~~
- ~~2. Acknowledge receipt of the application by means of a written letter to the applicant with a copy to the appropriate establishment inspector;
 - ~~a. The inspector will contact the applicant and schedule an inspection to be completed prior to the anticipated date of the change in services. The results of the inspection will be recorded on a form provided by the Department; and~~~~

- ~~3. Issue an establishment license to each establishment which meets the requirements as defined in this section within 150 days of receipt of a completed application.~~

~~68-003.03 License Display: Each manager must conspicuously display the establishment license in the branch establishment and/or funeral establishment.~~

~~68-003.04 Establishment Manager Responsibilities: The designated manager is responsible for all transactions conducted at the establishment, in compliance with the statutes, rules and regulations relating to funeral directing and embalming and establishments.~~

~~68-003.05 License Not Transferable: A license is issued only for the premises and manager named in the application and is not transferable or assignable. Change of manager, name, or location terminates the license.~~

~~68-004 USE OF NAMES OF LICENSED PERSONNEL ONLY IN CONDUCTING OR ADVERTISING A FUNERAL ESTABLISHMENT: A funeral establishment must not use any name which would mislead the public or use the name of any person not currently licensed as an embalmer or funeral director in connection with or as a part of the name of any funeral establishment. A name may not be used in any manner so as to mislead the public to believe that an unlicensed person is a licensed embalmer or funeral director. This rule does not prohibit the use of the name of any deceased person who, when alive, was a licensed embalmer or funeral director, in connection with or as a part of the name of a funeral establishment in the State of Nebraska.~~

~~68-005 STATEMENT OF SERVICES: A written statement, signed by the funeral director and embalmer or legal representative, of all principal services and furnishings to be supplied by the funeral director and embalmer for the preparation and burial or cremation of the deceased, together with the actual total cost, must be given to the next of kin or other person responsible for the making of the funeral arrangements prior to the burial or disposition of the deceased. A copy of such statement, signed by the person to whom it was tendered, must be retained in the records of the funeral director and embalmer for a period of at least two years.~~

~~68-006 REMOVALS OR FIRST CALLS: Except in those instances in which removals are performed by public authorities in emergency situations, first calls or removals of dead human bodies must be conducted only by persons licensed as embalmers or funeral directors in the State of Nebraska or pursuant to the direction of a licensed embalmer or funeral director. When a licensed embalmer or funeral director directs another to make a first call or removal of a dead human body, he accepts, in every manner, full responsibility for all aspects of the first call or removal.~~

68-007 AUTHORIZED SERVICES OF AUXILIARY PERSONNEL:

1. ~~A licensed funeral director and embalmer must be in charge of each funeral service, in person, whenever a dead human body is present. No person who is not licensed as an funeral director and embalmer, or serving as an apprentice, will embalm dead human bodies for burial or cremation. 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/her direct on-site supervision and responsibility.~~
2. ~~At the direction of a licensed funeral director and embalmer, auxiliary personnel may make first calls or removals of dead human bodies as per 172 NAC 68-006.~~

68-008 TRANSPORTATION AND DISPOSAL OF DEAD HUMAN BODIES

68-008.01 Bodies Dead of a Communicable Disease: ~~Bodies dead of any communicable disease listed as such by the Center for Disease Control (CDC) must be completely wrapped before removal from the premises.~~

1. ~~Bodies dead of communicable diseases listed by the CDC must be thoroughly and promptly embalmed and will be held in isolation from the public for a period of 24 hours following the embalming.~~
2. ~~All bodies dead of any of the communicable diseases listed by CDC and which are not promptly and completely embalmed must be encased immediately after death in a metal or metal lined and hermetically sealed container, and under no condition will the body be removed from the container.~~
3. ~~This rule does not prohibit a public funeral, nor does it relieve persons who are quarantined as contacts from quarantine requirements.~~

~~Bodies dead of a communicable disease other than those contained in the CDC list require no further special handling in the event that they are embalmed.~~

68-008.02 Interstate Transportation: ~~In case a body is to be transported out of the state the person or persons 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, in addition to the requirements provided by 172 NAC 68. They will further comply with all requirements of the common carrier and of the Interstate Commerce Commission.~~

~~68-008.03 Intrastate Transportation of Bodies Dead of a Cause Other Than a Communicable Disease:~~

~~1. — Un-Embalmed Bodies:~~

- ~~a. — Dead human bodies, which have not been embalmed, must not be transported by common carrier. Transportation may be made by privately owned conveyance under the supervision and responsibility of a licensed Funeral Director.~~
- ~~b. — The un-embalmed body must be embalmed, buried, or cremated within 24 hours following death, provided, however, that an un-embalmed body may be retained in storage at a constant temperature of less than 40 degrees Fahrenheit for not more than 72 hours. When such a body is removed from storage and transported it must be embalmed, buried, or cremated within 24 hours following the removal from storage.~~
- ~~c. — In the event the body is placed in a metal or metal lined hermetically sealed container immediately after death it may be considered for the purpose of transporting the same as an embalmed body.~~

~~2. — Embalmed Bodies: There are no additional restrictions to the transportation of embalmed bodies other than those contained in the existing Nebraska statutes, provided the body is embalmed by arterial and cavity injection using current accepted practice and chemicals.~~

~~a. — Exception: In the event the remains are to be sent to the State Anatomical Board, cavity work should be avoided when possible.~~

~~68-008.04 General Rule Relating to Final Disposal of Dead Human Bodies: In all instances final disposition of a dead human body which has been embalmed must be made within 30 days after death, unless special permission in writing granting otherwise has been obtained from the Director of Regulation and Licensure. 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.~~

~~68-009 REQUIREMENTS FOR FUNERAL ESTABLISHMENT INSPECTIONS: All funeral establishments will receive an initial and thereafter, a renewal inspection. The criteria for inspection required by the Department and Board is set forth below.~~

~~68-009.01 Documents Reviewed: The following documents will be reviewed during each inspection:~~

- ~~1. — Current license of the funeral establishment on display;~~
- ~~2. — Current license of the manager and all licensed embalmers, registered apprentices, and licensed funeral directors employed by the funeral establishment;~~

- ~~3. A sign which displays the name of the current or proposed funeral establishment. The sign must be located on or at the front of the building in a position that it clearly is visible and legible from the outside of the building, or provide documentation that it is on order; and~~
- ~~4. Copies of written statements containing a list of principal services and furnishings to be supplied by the funeral director or funeral director and embalmer for the preparation and burial or cremation of a deceased body (i.e., general price list).~~

~~68-009.02 Physical Structure Review: The physical structure must be maintained to ensure safety of the public and the inspector inspecting the funeral establishment to ensure compliance with the equipment and sanitation requirements.~~

- ~~1. If services will include conducting or arranging funeral services for dead human bodies, the funeral establishment must contain:
 - ~~a. A room(s) for counseling families or next of kin, conducting of a funeral service for dead human bodies, and/or for viewing of the deceased. The room(s) must have 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. The room(s):
 - ~~(1) Must have space for public seating;~~
 - ~~(2) Must have space for viewing the deceased body; and~~
 - ~~(3) May have an adjacent area for cosmetic services and dressing of the deceased body for viewing purposes.~~~~~~
- ~~2. If services include conducting or arranging funeral services for dead human bodies, the funeral establishment must include motor vehicles, such as, but not limited to: funeral coach, sedans, and vans.~~
- ~~3. If services include the care and preparation for burial, disposition, or cremation, the funeral establishment must include:
 - ~~a. A preparation room for preparing dead human bodies for burial or other final disposition. The preparation room must have floor to ceiling walls on all sides and must be at least 150 square feet (square footage does not apply to establishments licensed before the effective date of these regulations). The preparation room must contain the following:
 - ~~(1) Flooring and walls that are cleanable, such as tile or other suitable hard surface;~~
 - ~~(2) Adequate drainage, lighting, and ventilation;~~
 - ~~(3) At least two sinks:
 - ~~(a) One for washing of hands and instruments;~~~~~~~~

- ~~———— (b) — One for use of drainage from the embalming table and for use with the aspirator;~~
- ~~———— (4) — Cots/stretchers and adequate linens and covers;~~
- ~~———— (5) — Fully closing doors;~~
- ~~———— (6) — The following instruments and supplies with ample storage thereof:
 - ~~———— (a) — Head covers;~~
 - ~~———— (b) — Shoe covers;~~
 - ~~———— (c) — Goggles;~~
 - ~~———— (d) — Masks;~~
 - ~~———— (e) — Heavy duty or surgical gloves;~~
 - ~~———— (f) — Disinfectant spray;~~
 - ~~———— (g) — Adequate materials for use with contagious diseases (contagious disease kit);~~
 - ~~———— (h) — Embalming Gown with sleeves;~~~~
- ~~———— (7) — The following instruments and supplies with ample storage thereof, kept in a sanitary condition:
 - ~~———— (a) — Porcelain or stainless steel embalming table;~~
 - ~~———— (b) — Embalming machine;~~
 - ~~———— (c) — Hydro or electrical aspirator with arterial tubes and drain tubes;~~
 - ~~———— (d) — Pair of spring forceps;~~
 - ~~———— (e) — Aneurysm needles;~~
 - ~~———— (f) — Pair of scissors;~~
 - ~~———— (g) — Different sizes of suture needles;~~
 - ~~———— (h) — Scalpel with extra blades;~~
 - ~~———— (i) — Razor with extra blades;~~
 - ~~———— (j) — Trocar with suitable length of hose;~~
 - ~~———— (k) — Cavity Fluid Injector;~~
 - ~~———— (l) — Sanitary and medical waste container;~~
 - ~~———— (m) — Arm and head supports; and~~
 - ~~———— (n) — Cavity, special and arterial fluids.~~~~

~~4. The funeral establishment must have adequate lighting to maintain public safety.~~

~~68-009.02A 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.~~

~~68-009.02B Bandages, cotton, and other waste materials must be destroyed immediately at the conclusion of each case to the end that all disease-producing organisms are destroyed and the public health thereby protected.~~

~~68-009.02C 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 to the end that all disease-producing organisms are destroyed and the public health thereby protected.~~

~~68-009.03 Inspector Responsibilities:~~ The inspector will record the results of the inspection on the inspection report, distribute a final copy of the inspection report to the manager of the funeral establishment at the conclusion of the inspection, and forward a final copy of the inspection report to the Department.

~~68-009.04 Department Responsibilities:~~ The Department will maintain copies of all current inspection reports.

~~68-009.05 Timing of Inspections:~~ The Department may conduct an on-site inspection at any time it deems necessary.

~~68-009.06 Renewal Selection Inspections:~~ Every two years, the Department may conduct an inspection of up to 25% of the establishments based on a random selection.

~~68-009.07 Focused Selection Inspections:~~ The Department may conduct an inspection of an establishment when the Department is informed of one or more of the following:

- ~~1. The passage of 6 years without an inspection;~~
- ~~2. A complaint alleging a violation of 172 NAC 68-009.01 to 68-009.02;~~
- ~~3. Change of services or location; and~~
- ~~4. Any other event that raises concerns about the maintenance or management of the establishment.~~

~~68-010 REQUIREMENTS FOR BRANCH FUNERAL ESTABLISHMENT INSPECTIONS:~~ All branch establishments will receive an initial and renewal inspection and must maintain a level of cleanliness to assure public health and safety. The criteria for inspection required by the Department and Board is set forth below.

~~68-010.01 Documents Reviewed:~~ The following documents will be reviewed during each inspection:

- ~~1. Current license of the branch establishment on display;~~
- ~~2. Current license of the manager and all licensed personnel practicing at the branch establishment location;~~
- ~~3. A sign which displays the name of the current or proposed branch establishment. The sign must be located on or at the front of the building in such a position that it clearly is visible and legible from the outside of the building, or provide documentation that it is on order; and~~
- ~~4. If funeral arrangements are made at the branch location, copies of written statements containing a list of principal services and furnishings to be supplied by the funeral director or funeral director and embalmer for the preparation and burial or cremation of a deceased body (i.e., general price list).~~

~~68-010.02 Physical Structure Review:~~ The physical structure must be maintained to ensure safety of the public and the inspector will inspect the branch establishment to ensure compliance with the equipment and sanitation requirements. The branch establishment must contain:

- ~~1. Space for viewing the deceased body. The room(s) will have floor to ceiling walls on all sides;~~
- ~~2. Adequate ventilation; and~~
- ~~3. Adequate lighting to maintain public safety.~~

~~68-010.03 Casket Selection Area:~~ The branch establishment must have a casket selection area, which provides either a catalogue or merchandise.

~~68-010.04 Inspector Responsibilities:~~ The inspector will record the results of the inspection on the inspection report, distribute a final copy of the inspection report to the manager of the funeral establishment at the conclusion of the inspection, and forward a final copy of the inspection report to the Department.

~~68-010.05 Department Responsibilities:~~ The Department will maintain copies of all current inspection reports.

~~68-010.06 Renewal Inspection:~~ An unannounced inspection will be conducted to ensure that the establishment is maintained in a clean and sanitary condition; and to ensure that it adheres to all statutes, rules, and regulations. Renewal inspections will be conducted in accordance with 172 NAC 68-010.01 through 68-010.05. Inspections may occur more frequently if the Board deems appropriate.

~~68-011 CRITERIA FOR SUCCESSFUL COMPLETION OF AN ESTABLISHMENT INSPECTION:~~ Each applicant for an establishment license must successfully complete an inspection to receive a license to operate. The criteria for successful completion of inspections are set forth below:

~~68-011.01 Criteria for Successful Completion of an Initial Inspection~~

~~68-011.01A~~ The inspector will record a rating of "Satisfactory or Unsatisfactory" on the inspection report.

~~68-011.01B~~ The inspector will record a rating of "Satisfactory" on the initial inspection when the establishment receives an overall inspection rating of 90% or greater and an "Unsatisfactory" on the initial inspection when the establishment receives an overall inspection rating of less than 90% or if the inspector believes there is a severe health risk to the public.

- ~~1. When an applicant receives a rating of "Unsatisfactory", the applicant must not operate the establishment and may, at the discretion of the inspector,~~

~~be granted 30 days from the date of the initial inspection to meet the requirements.~~

- ~~2. The inspector will conduct a re-inspection within 30 days of receipt of verification that all corrections cited on the inspection report are corrected, documented on a form provided by the Department.~~
- ~~3. If the establishment receives a "Satisfactory" rating after re-inspection, the inspector will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.~~
- ~~4. If the establishment receives an "Unsatisfactory" rating after the re-inspection, the Department will deny the applicant the issuance of a license to operate an establishment.~~

68-011.02 Criteria for Successful Completion of a Renewal Inspection

~~68-011.02A The inspector will issue a rating of "Satisfactory" on all renewal inspections when the establishment receives an overall inspection rating of 90% or greater.~~

~~68-011.02B The inspector will issue a rating of "Unsatisfactory" on all renewal inspections when the funeral establishment receives an overall inspection rating of less than 90%.~~

- ~~1. When an establishment receives a rating of "Unsatisfactory" the designated manager may at the discretion of the inspector be granted 30 days from the date of the initial inspection to meet the requirements.
 - ~~a. Upon completion of corrective action, the establishment manager must contact the Department and advise of compliance with the deficiencies noted on the inspection report.~~~~
- ~~2. The inspector will conduct a re-inspection of the establishment within 30 days of receipt of the notice of compliance by the establishment manager.
 - ~~a. If the establishment meets the requirements at the time of re-inspection, the inspector will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.~~
 - ~~b. If the establishment receives an "Unsatisfactory" rating after the re-inspection, the Department will, within 10 days of the completion of the re-inspection, give notice to the establishment that the license is suspended in accordance with Neb. Rev. Stat. §71-1330.01 and 71-1330.02. Such notice will be in written form and will:
 - ~~(1) State that the establishment license is suspended;~~
 - ~~(2) State the reasons for the establishment license suspension;~~~~~~

- ~~—(3)— State that the establishment license suspension will become final 30 days after the mailing of the notice of suspension unless the manager submits a written request for a hearing within such 30 day period; and~~
- ~~—(4)— Be sent to the manager by certified mail.~~
- ~~—c.— Upon receipt of a written request for a hearing, the manager will be given a hearing before the Department in accordance with the Administrative Procedure Act.~~
- ~~—d.— The Department's decision regarding the suspension of the license will become final 30 days after a copy of the decision is mailed to the manager, unless the manager appeals the decision pursuant to Neb. Rev. Stat. §71-1333.03.~~
- ~~3.— When an establishment license is suspended for failure of a renewal inspection, the establishment must reapply to the Department for a license to operate as specified in 172 NAC 68-003.~~

~~68-012 CLOSING AN ESTABLISHMENT: When an establishment manager anticipates closing for business, the Department must be notified in writing at least 30 days before the closing date. Such notification must state the anticipated closing date. The Department will then change its records to reflect the current status of the establishment. The establishment must retain the establishment's records until resale or it may forward the establishment's records to another funeral establishment within the same town/city.~~

~~68-013 PROCEDURES FOR RENEWAL OF A LICENSE: All licenses issued by the Department under the Act and these regulations expire on February 1 of each even-numbered year.~~

~~68-013.01 Renewal Process: Any licensee who wishes to renew his/her establishment license must:~~

- ~~1.— Pay the renewal fee as prescribed in 172 NAC 68-017; and~~
- ~~2.— Cause to be submitted to the Department:
 - ~~a.— The renewal notice; and~~
 - ~~b.— The renewal fee.~~~~

~~68-013.02 First Notice: At least 30 days before November 1 of each odd-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of operation as noted in the records of the Department.~~

~~68-013.02A~~ The renewal notice must specify:

- ~~1. The name of the licensee;~~
- ~~2. The licensee's last known address of record;~~
- ~~3. The license number;~~
- ~~4. The expiration date of the license; and~~
- ~~5. The renewal fee as prescribed in 172 NAC 68-017.~~

~~68-013.02B~~ The licensee must apply for renewal by submitting to the Department:

- ~~1. The renewal notice; and~~
- ~~2. The renewal fee;~~

~~68-013.03~~ Second Notice: The Department must send to each licensee who fails to renew his/her establishment license in response to the first notice a second notice of renewal in accordance with the requirements of 172 NAC 68-013.01 that specify:

- ~~1. That the licensee failed to pay the renewal fee;~~
- ~~2. That the license has expired;~~
- ~~3. That the Department will suspend action for 30 days following the date of expiration;~~
- ~~4. That upon receipt of the renewal fee, together with an additional late fee of \$25, no order of revocation will be entered; and~~
- ~~5. That upon failure to receive \$25 in addition to the regular renewal fee, the license will be revoked as specified in 172 NAC 68-014.~~

~~68-013.03A~~ The licensee must apply for renewal by submitting to the Department:

- ~~1. The renewal notice;~~
- ~~2. Attestation by the licensee:
_____ a. That s/he has not operate the establishment in Nebraska since the
expiration of its license; or
_____ b. To the actual number of days s/he operated the establishment in
Nebraska since the expiration of its license; and~~
- ~~3. The renewal fee and the additional late fee of \$25.~~

~~68-013.04~~ When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice of hearing and makes proper record of the revocation.

~~68-013.05~~ The Department may refuse to renew a license for falsification of any information submitted for renewal of a license or for other grounds as specified in Neb. Rev. Stat. §71-1333.01. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-1333.01 and 184 NAC 1, Rules of Practice and Procedure of the Department.

~~68-13.06~~ Administrative Penalty/Other Action: An individual who operates an establishment after the expiration of a credential is subject to assessment of an Administrative Penalty pursuant

to 172 NAC 68-018, or such other action as provided in the statutes and regulations governing the credential.

~~68-014 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS:~~

~~The Department may revoke a credential when the credential holder fails to meet the renewal requirements.~~

~~68-014.01 Revocation for Nonpayment of Renewal Fee or Late fee within Thirty Days of Expiration of the Credential:~~

~~68-014.01A When a credential holder fails to pay the required renewal fee and/or to pay a late fee of \$25 within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.~~

~~68-014.01A1 The Department will send a post revocation notice which will specify that:~~

- ~~1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;~~
- ~~2. The credential failed to renew the credential;~~
- ~~3. Department has revoked the credential; and~~
- ~~4. The credential holder has a right to request reinstatement of the credential.~~

~~68-015 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to operate an establishment in total or in part and who seek the authority to return to operation in Nebraska with a valid Nebraska credential.~~

~~68-015.01 Eligibility~~

~~68-015.01A An establishment whose credential has been previously:~~

- ~~1. Revoked for failure to meet the renewal requirements; or~~
- ~~2. Suspended, limited or revoked for disciplinary reasons;~~

~~may request, at any time, to be re-credentialed and re-authorized to operate under the credential, in accord with these regulations.~~

~~68-015.01B An establishment whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.~~

~~68-015.01C An establishment which operates prior to re-credentialing is subject to:~~

- ~~1. Assessment of an Administrative Penalty pursuant to 172 NAC 68-018; and~~
- ~~2. Limitation or other sanction on the credential, or denial of the request to be re-~~

~~credentialed and re-authorized to operate under the credential, and referral for prosecution for uncredentialed operation, as provided in the statutes and regulations governing the credential.~~

~~68-015.02 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:~~

- ~~1. Meet the renewal requirements, including:
 - ~~a. Paying the renewal fee, the late fee of \$35 and any other applicable fees; and~~~~
- ~~2. Attest:
 - ~~a. That s/he has not operated the establishment in Nebraska since it last held an active credential; or~~
 - ~~b. To the actual number of days s/he operated the establishment if the applicant has operated in Nebraska since it last held an active credential.~~~~

~~68-015.03 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:~~

- ~~1. A written application which contains the following information about the applicant:
 - ~~(1) Name; and~~
 - ~~(2) Address.~~~~
- ~~2. The renewal fee, the late fee of \$35 and any other applicable fees.~~
- ~~3. Attestation by the applicant:
 - ~~a. That s/he has not operated the establishment in Nebraska since it last held an active credential; or~~
 - ~~b. To the actual number of days operated if the applicant has operated the establishment in Nebraska since it last held an active credential.
 - ~~(1) If an applicant has operated the establishment after its credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 68-018 in which case a notice and opportunity for hearing will be sent to the applicant.~~
 - ~~(2) If an applicant has operated the establishment after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 68-015.03B below.~~~~~~

~~The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).~~

~~68-015.03A The Board's recommendation to the Department may be to:~~

- ~~1. Reinstatement the credential;~~
- ~~2. Reinstatement the credential with terms, conditions or restrictions; or~~
- ~~3. Deny reinstatement.~~

~~68-015.03B~~ Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

- ~~1. Reinstatement of the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 68-018 if warranted;~~
- ~~2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - ~~a. Reinstatement of the credential with terms, conditions, or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 68-018 if warranted; or~~
 - ~~b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.~~~~

~~68-015.04 Reapplication After One Year of Revocation for Non-Payment of the Renewal Fee:~~
An establishment whose license has been revoked for non-payment of renewal fees may reapply to the Department for licensure after one year of revocation as set forth in 172 NAC 68-003.

~~68-015.05 Reapplication After Disciplinary Action:~~ An establishment whose license has been limited, suspended, or revoked for disciplinary action may reapply to the Department for licensure as set forth in 172 NAC 68-003.

~~68-015.06 Voluntarily Surrendered License:~~

- ~~1. Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. § 71-161.11 may be restored at the discretion of the Department.~~
- ~~2. Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.
 - ~~a. If an individual has operated the establishment while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 68-018.~~~~
- ~~3. Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.~~

~~68-016 GROUND ON WHICH THE DEPARTMENT WILL DENY, REFUSE RENEWAL OF, OR DISCIPLINE AN ESTABLISHMENT LICENSE~~

~~68-016.01~~ The Department will deny an application for an establishment license when the manager fails to meet the requirements for a license as specified in 172 NAC 68-003.

~~68-016.02~~ The Department will refuse renewal of an establishment license if the manager fails to meet the requirements specified in 172 NAC 68-013.

~~68-016.03~~ The Department will deny an application, revoke or suspend, or refuse renewal of an establishment license for any of the following grounds:

- ~~1. Conviction of any crime involving moral turpitude.~~
- ~~2. Obtaining a license as a funeral establishment or branch establishment by false representation or fraud.~~
- ~~3. Operating a funeral establishment or branch establishment without a manager responsible for the operations of the establishment.~~
- ~~4. A conviction of a violation of any of the provisions of Neb. Rev. Stat. §71-147, or 71-148, 71-1301 to 71-1306, and 71-1326 to 71-1354.~~
- ~~5. Unprofessional conduct, which is hereby defined to include:
 - ~~a. Misrepresentation or fraud in the conduct of a funeral establishment or branch establishment; or~~
 - ~~b. Aiding or abetting an unlicensed person to practice funeral directing and embalming.~~~~
- ~~6. Violation of 172 NAC 67 and 68.~~
- ~~7. Misrepresentation or fraud in the conduct of an establishment.~~
- ~~8. Using the name of any person not currently licensed as a funeral director and embalmer in connection with or as part of the name of any funeral establishment. A name may not be used in any manner so as to mislead the public to believe that an unlicensed person is a licensed embalmer or funeral director, provided however, that this rule will not prohibit the use of the name of any deceased person who, when alive, was a licensed embalmer or funeral director, in connection with or as a part of, the name of a funeral establishment in the State of Nebraska.~~
- ~~9. Aiding or abetting an unlicensed person to practice funeral directing and embalming.~~

~~68-016.04~~ The Department will deny an application, revoke, limit, suspend, refuse renewal, or take other disciplinary measures against an application or license pursuant to section 71-

~~155 if the applicant or manager of an establishment is found guilty of any of the acts specified in section 71-147 and 71-148 or the following acts or offenses:~~

- ~~1. Solicitation of dead human bodies by the licensee or his/her agents, assistants, or employees, either prior to or following death.~~
- ~~2. Purchasing of funeral or embalming engagements or the payment of a commission either directly or indirectly or offer of payment of such commission to any agent, assistant, or employee for the purpose of securing business.~~
- ~~3. Using indecent, profane, or obscene language in the presence of a dead human body or within the immediate presence or hearing of the family, relatives, or friends of the deceased prior to the burial of the deceased.~~
- ~~4. Soliciting or accepting any remuneration, commission, bonus, or rebate in consideration of the recommending or causing a dead human body to be placed in any crematory, mausoleum, or cemetery.~~
- ~~5. Using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the shipment, burial, or other disposition of a dead human body without first identifying the item as used.~~
- ~~6. Violations of any state law, municipal ordinance, or any rule or regulation of the Department or other body having regulatory powers, relating to the handling, custody, care, or transportation of dead human bodies.~~
- ~~7. Refusal to surrender promptly the custody of a dead human body upon request of a person or persons lawfully entitled to the custody thereof.~~
- ~~8. Taking undue advantage of a patron or patrons, or being found guilty of fraud, or misrepresentation in the selling of merchandise or service to patrons.~~

~~68-016.05 A licensee who commits any of the following acts or otherwise violates any of the following provisions shall be guilty of a Class II misdemeanor:~~

- ~~1. Paying directly or indirectly any money or other thing of value as a commission or gratuity for the securing of business.~~
- ~~2. The buying of business of any person, firm, or corporation, or the paying of a commission to any person, firm or corporation or to any hospital or any institution where death occurs, or to any hospital superintendent, nurse, intern or other employee, whether directly or indirectly.~~
- ~~3. Willful malpractice.~~

~~68-016.06 If the department determines to deny the application for a license as or to revoke, suspend, or refuse renewal of the license of a funeral establishment or branch establishment, it shall send to the applicant or licensee, by certified mail, a notice setting forth the particular reasons for the determination.~~

~~Any manager shall have the right of appeal from an order of the department denying, revoking, suspending, or refusing renewal of a funeral establishment license or branch establishment license. The appeal shall be in accordance with the Administrative Procedure Act.~~

~~68-017 SCHEDULE OF FEES: The following fees have been set by the Department:~~

~~68-017.01 Initial License Fee: By an applicant for a license to operate:~~

- ~~1. A funeral establishment, the fee of \$25.~~
- ~~2. A branch establishment, the fee of \$20.~~

~~68-017.02 License Renewal Fee: By an applicant for renewal on a biennial basis of a license to operate:~~

- ~~1. A funeral establishment, the fee of \$25.~~
- ~~2. A branch establishment, the fee of \$20.~~

~~68-017.03 Name Change Fee: By an applicant for an amended license to operate a Funeral establishment or a branch establishment, due to a change in the establishment name the fee of \$10.~~

~~68-017.04 Relocation Fee: By an applicant for an amended license to operate a funeral establishment or branch establishment, due to the relocation of the establishment, the fee of \$25.~~

~~68-017.05 Change in Manager Fee: By an applicant for an amended license to operate a funeral establishment or branch establishment, due to a change in manager, the fee of \$10.~~

~~68-017.06 Renewal Late Fee: By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of the license, the fee of \$25 as a late fee in addition to the renewal fee.~~

~~68-017.07 Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:~~

- ~~1. The basis on which a license was issued;~~
- ~~2. The date of issuance;~~
- ~~3. Whether disciplinary action has been taken against the license; and~~
- ~~4. The current status of the license.~~

~~68-017.08 Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.~~

~~68-017.09 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.~~

~~68-017.10 Administrative Fee: For a denied license or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the licensing fee is less~~

than \$25, the fee will be forfeited.

~~68-017.11 Reinstatement Late Fee:~~ For reinstatement of a license for failure to meet the renewal requirements within one year, the fee of \$35 in addition to the renewal fee.

~~68-018 ADMINISTRATIVE PENALTY:~~ The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

- ~~1. Prior to the issuance of a credential;~~
- ~~2. Following the expiration of a credential; or~~
- ~~3. Prior to the reinstatement of a credential.~~

~~68-018.01 Evidence of Practice:~~ The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

- ~~1. The person admits to engaging in practice;~~
- ~~2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;~~
- ~~3. Billing or payment records document the provision of service, care, or treatment by the person;~~
- ~~4. Service, care, or treatment records document the provision of service, care, or treatment by the person;~~
- ~~5. Appointment records indicate that the person was engaged in practice; and~~
- ~~6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.~~

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

~~68-018.02 Penalty:~~ The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

- ~~1. Provide written notice of the assessment to the person. The notice must specify:
 - ~~a. The total amount of the administrative penalty;~~
 - ~~b. The evidence on which the administrative penalty is based;~~
 - ~~c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;~~
 - ~~d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund;~~
 - ~~e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property; and~~~~
- ~~2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.~~

Effective Date
01/19/05

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATIONS AND LICENSURE

172 NAC 68

~~68-018.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and 184 NAC 1.~~

Approved by the Attorney General: _____ December 13, 2004

Approved by the Governor: _____ January 13, 2005

Filed with the Secretary of State: _____ January 14, 2005

EFFECTIVE DATE: _____ January 19, 2005