

EFFECTIVE  
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NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 68

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 interment, 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 listed in 173 NAC 1-004.01 must be completely wrapped before removal from the premises. Bodies dead of such communicable diseases must be:

1. Thoroughly and promptly embalmed and be held in isolation from the public for a period of 24 hours following the embalming; or
2. Encased immediately after death in a body transfer case or shipping case that is constructed out of 20 gauge steel and is hermetically sealed, and under no condition will the body be removed from the container; or

3. Cremated immediately. If visitation is to occur prior to cremation, the body must be thoroughly and promptly embalmed and held in isolation from the public for a period of 24 hours following the embalming.

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 173 NAC 1-004.01 require no further special handling.

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.