SENATE BILL 146

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Pat Woods

AN ACT

RELATING TO FUNERAL SERVICES; CREATING A FUNERAL SERVICE DIRECTOR LICENSE; DEFINING A FUNERAL SERVICE DIRECTOR'S SCOPE OF PRACTICE; REQUIRING AN APPRENTICESHIP.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-32-3 NMSA 1978 (being Laws 1993, Chapter 204, Section 3, as amended) is amended to read:

"61-32-3. DEFINITIONS.--As used in the Funeral Services Act:

A. "apprentice funeral service director" means a person learning to make arrangements for or direct funerals under the supervision of a funeral services practitioner at a funeral establishment or commercial establishment that is licensed pursuant to the Funeral Services Act;

B. "board" means the board of funeral
services;

[B.] C. "committal service" means a service at a
place of interment or entombment that follows a funeral
conducted at another location;

[G.] D. "cremains" means cremated remains;

[D.] E. "cremation" means the reduction of a dead
human body by direct flame to a residue, which includes bone
fragments;

[E.] F. "crematory" means every place or premises
that is devoted to or used for cremation and pulverization of
the cremains;

[F.] G. "crematory authority" means the individual
who is ultimately responsible for the operation of a crematory;

[H.] H. "department" means the regulation and
licensing department;

[I.] I. "direct disposer" means a person licensed
to engage solely in providing direct disposition at a direct
disposition establishment, licensed pursuant to the Funeral
Services Act, as provided in that act;

[J.] J. "direct disposition" means only the
disposition of a dead human body as quickly as possible,
without a direct disposer performing or arranging a funeral,
graveside service, committal service or memorial service,
whether public or private, and without embalming of the body
unless embalming is required by the place of disposition;
[J-K]  "direct supervision" means that the supervising funeral service practitioner is physically present with and in direct control of the person being trained;

[K-L]  "disposition" means the final disposal of a dead human body, whether it be by earth interment, above-ground interment or entombment, cremation, burial at sea or delivery to a medical school, when the medical school assumes complete responsibility for the disposal of the body following medical study;

[L-M]  "embalming" means the disinfection, preservation and restoration, when possible, of a dead human body by a licensed funeral service practitioner or a licensed funeral service intern under the supervision of a licensed funeral service practitioner;

[M-N]  "ennichement" means interment of cremains in a niche in a columbarium, whether in an urn or not;

[N-O]  "entombment" means interment of a casketed body or cremains in a crypt in a mausoleum;

[O-P]  "establishment" means every office, premises or place of business where the practice of funeral service or direct disposition is conducted or advertised as being conducted and includes commercial establishments that provide for the practice of funeral service or direct disposition services exclusively to licensed funeral or direct disposition establishments or a school of medicine;
"funeral" means a period following death in which there is an organized, purposeful, time-limited, group-centered ceremony or rite, whether religious or not, with the body of the deceased present;

"funeral merchandise" means that personal property offered for sale in connection with the transportation, funeralization or disposition of a dead human body, including the enclosure into which a dead human body is or cremains are directly placed, and excluding mausoleum crypts, interment enclosures preset in a cemetery and columbarium niches;

"funeral service director" means a person licensed to make arrangements for or direct funerals at a funeral establishment or commercial establishment that is licensed pursuant to the Funeral Services Act;

"funeral service intern" means a person licensed to be in training for the practice of funeral service under the supervision and instruction of a funeral service practitioner at a funeral establishment or commercial establishment, licensed pursuant to the Funeral Services Act;

"funeral service practitioner" means a person licensed to engage in the practice of funeral service at a funeral establishment or commercial establishment that is licensed pursuant to the Funeral Services Act;

"funeral services" means those immediate
post-death activities related to a dead human body and its care
and disposition, whether with or without rites or ceremonies;
but "funeral services" does not include disposition of the body
by a school of medicine following medical study;

[U] "general supervision" means that the
supervising funeral service practitioner is not necessarily
physically present in the establishment with the person being
trained but is available for advice and assistance;

[V] "graveside service" means a funeral held at
the graveside only, excluding a committal service that follows
a funeral conducted at another location;

[W] "jurisprudence examination" means an
examination prescribed by the board on the statutes, rules and
regulations pertaining to the practice of funeral service or
direct disposition, including the Funeral Services Act, the
rules of the board, state health regulations governing human
remains and the Vital Statistics Act;

[X] "licensee in charge" means a funeral
service practitioner who is ultimately responsible for the
conduct of a funeral or commercial establishment and its
employees; or a direct disposer who is ultimately responsible
for the conduct of a direct disposition establishment and its
employees;

[Y] "make arrangements" means advising or
counseling about specific details for a funeral, graveside
service, committal service, memorial service, disposition or
direct disposition;

[ZZ] BB. "memorial service" means a gathering of
persons for recognition of a death without the presence of the
body of the deceased;

[AA] CC. "practice of funeral service" means those
activities allowed under the Funeral Services Act by a funeral
service practitioner or funeral service intern; and

[BB] DD. "pulverization" means the process that
reduces cremains to a granular substance."

SECTION 2. A new section of the Funeral Services Act is
enacted to read:

"[NEW MATERIAL] REQUIREMENTS FOR LICENSURE--FUNERAL
SERVICE DIRECTOR--SCOPE OF PRACTICE--LIMITATIONS--
APPRENTICESHIP.--

A. A license to practice as a funeral service
director shall be issued to any person who files a completed
application, accompanied by the required fees and
documentation, and who submits satisfactory evidence that the
person:

(1) is at least eighteen years of age;

(2) has graduated from high school or the
equivalent;

(3) has made at least fifty funeral
arrangements and directed at least fifty funerals during an
apprenticeship period of not less than twelve months under the
supervision of a licensed funeral service practitioner; and

(4) has not been convicted of a crime
involving moral turpitude.

B. A funeral service director does not have the
rights and duties of a funeral service practitioner and is
subordinate to the funeral service practitioner.

C. A funeral service director may, under the
general supervision of a funeral service practitioner:

(1) make arrangements for a funeral, committal
service, graveside service or memorial service;

(2) direct a funeral, committal service,
graveside service or memorial service; and

(3) perform such other duties and services as
directed by a funeral service practitioner, except for direct
disposal services or other services requiring specialized
training and experience.

D. A funeral service director shall be employed by
and receive training at only one establishment. The board may
adopt rules that will allow training at more than one
establishment under special circumstances.

E. A funeral service director's change of
employment shall be reported to the board in writing within
thirty days of the change. A change of employment that is not
reported shall cause the period worked at the new establishment
not to count as time served toward completion of the
apprenticeship. It is the responsibility of the funeral
service director and the licensee in charge to report changes
of employment.

   F. A funeral service director may be under the
supervision of more than one funeral service practitioner at
the establishment at which the funeral service director is
employed; provided that the board has received notice in
writing prior to any changes in supervision. The board may
adopt rules specifying the maximum number of persons that may
be supervised by a funeral service practitioner.

   G. An apprentice funeral service director shall
report to the board quarterly, upon forms provided by the
board, and shall:

   (1) show the work that has been completed
during the preceding three months; and

   (2) submit proof of employment and supervision
as required by board rules."