

1 SENATE BILL 407

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Elizabeth "Liz" Stefanics

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10 AN ACT

11 RELATING TO NATURAL ORGANIC REDUCTION; PROVIDING FOR THE  
12 NATURAL ORGANIC REDUCTION OF A DEAD HUMAN BODY; ALLOWING FOR  
13 UNCLAIMED BODIES AND BODIES OF INDIGENT PERSONS TO BE REDUCED  
14 BY NATURAL ORGANIC REDUCTION; CREATING LICENSURE AND SCOPE OF  
15 PRACTICE REQUIREMENTS FOR NATURAL ORGANIC REDUCTION OPERATORS  
16 AND NATURAL ORGANIC REDUCTION FACILITIES; PROVIDING  
17 DISCIPLINARY PROCEEDINGS AND CRIMINAL PENALTIES.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. Section 24-12A-1 NMSA 1978 (being Laws 1993,  
21 Chapter 200, Section 1) is amended to read:

22 "24-12A-1. RIGHT TO AUTHORIZE CREMATION OR NATURAL  
23 ORGANIC REDUCTION--DEFINITIONS.--

24 A. Any adult individual may authorize ~~[his]~~ the  
25 individual's own cremation or natural organic reduction and the

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1 lawful disposition of ~~[his]~~ the individual's cremated or  
2 reduced remains by:

3 (1) stating ~~[his]~~ the desire to be cremated or  
4 reduced by natural organic reduction in a written statement  
5 that is signed by the individual and notarized or witnessed by  
6 two persons; or

7 (2) including an express statement in ~~[his]~~  
8 the individual's will indicating that the testator desired that  
9 ~~[his]~~ the individual's remains be cremated or reduced by  
10 natural organic reduction upon ~~[his]~~ death.

11 B. A personal representative acting pursuant to a  
12 will or ~~[Article 3 of]~~ Chapter 45, Article 3 NMSA 1978 or a  
13 funeral establishment, a commercial establishment, a direct  
14 disposition establishment, ~~[or a]~~ crematory or a natural  
15 organic reduction facility shall comply with a statement made  
16 in conformance with the provisions of Subsection A of this  
17 section. A statement that conforms to the provisions of  
18 Subsection A of this section is authorization to a personal  
19 representative, funeral establishment, commercial  
20 establishment, direct disposition establishment, ~~[or]~~ crematory  
21 or natural organic reduction facility that the remains of the  
22 decedent are to be cremated or reduced by natural organic  
23 reduction. Statements dated prior to the effective date of  
24 this 2023 act are to be given effect if they meet the  
25 requirements of Subsection A of this section.

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1 C. A personal representative, funeral  
2 establishment, commercial establishment, direct disposition  
3 establishment, [Ø] crematory or natural organic reduction  
4 facility acting in reliance upon a document executed pursuant  
5 to the provisions of this section, who has no actual notice of  
6 revocation or contrary indication, is presumed to be acting in  
7 good faith.

8 D. No funeral establishment, commercial  
9 establishment, direct disposition establishment, crematory or  
10 natural reduction facility or employee of a funeral  
11 establishment, commercial establishment, direct disposition  
12 establishment, [Ø] crematory or natural reduction facility or  
13 other person that relies in good faith on a statement written  
14 pursuant to this section shall be subject to liability for  
15 cremating or reducing the remains in accordance with the  
16 express instructions of a decedent. The written document is a  
17 complete defense to a cause of action by any person against any  
18 other person acting in accordance with the instructions of the  
19 decedent.

20 E. As used in this section:

21 (1) "commercial establishment" means an  
22 office, premises or place of business that provides for the  
23 practice of funeral service or direct disposition services  
24 exclusively to licensed funeral or direct disposition  
25 establishments;

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1 (2) "cremate" means to reduce a dead human  
2 body by direct flame to a residue that may include bone  
3 fragments; [~~and~~]

4 (3) "direct disposition establishment" means  
5 an office, premises or place of business that provides for the  
6 disposition of a dead human body as quickly as possible,  
7 without a funeral, graveside service, committal service or  
8 memorial service, whether public or private, and without  
9 embalming of the body unless embalming is required by the place  
10 of disposition;

11 (4) "natural organic reduction" means the  
12 contained, accelerated conversion of human remains to soil;

13 (5) "natural organic reduction facility" means  
14 the structure, room or other dedicated space in a building  
15 where natural organic reduction of a human body occurs; and

16 (6) "reduced remains" means the soil that  
17 remains after a dead human body has gone through the natural  
18 organic reduction process."

19 SECTION 2. Section 24-12A-3 NMSA 1978 (being Laws 1999,  
20 Chapter 241, Section 3) is amended to read:

21 "24-12A-3. UNCLAIMED BODIES AND BODIES OF INDIGENT  
22 PERSONS--CREMATION AND NATURAL ORGANIC REDUCTION PERMITTED.--

23 The body of an unclaimed decedent or an indigent person, the  
24 disposition of which is the responsibility of the county  
25 pursuant to the provisions of Chapter 24, Article 13 NMSA 1978,

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1 may be cremated or reduced by natural organic reduction upon  
2 the order of the county official responsible for ensuring the  
3 disposition of the body or upon the order of any other  
4 government official authorized to order the cremation or  
5 natural organic reduction. Absent a showing of bad faith or  
6 malicious intent, the official ordering the cremation or  
7 natural organic reduction and the person or establishment  
8 carrying out the cremation or natural organic reduction shall  
9 be immune from liability related to the cremation or natural  
10 organic reduction."

11 SECTION 3. Section 24-13-1 NMSA 1978 (being Laws 1939,  
12 Chapter 224, Section 1, as amended) is amended to read:

13 "24-13-1. BURIAL, ~~[OR]~~ CREMATION OR NATURAL ORGANIC  
14 REDUCTION OF UNCLAIMED DECEDENTS AND OF INDIGENTS--For the  
15 purposes of Chapter 24, Article 13 NMSA 1978, a dead person  
16 whose body has not been claimed by a friend, relative or other  
17 interested person assuming the responsibility for and expense  
18 of disposition shall be considered an unclaimed decedent. It  
19 is the duty of the board of county commissioners of each county  
20 in this state to cause to be decently interred, ~~[or]~~ cremated  
21 or reduced by natural organic reduction the body of any  
22 unclaimed decedent or indigent person. The county shall ensure  
23 that the body is buried, ~~[or]~~ cremated or reduced by natural  
24 organic reduction no later than thirty days after a  
25 determination has been made that the body has not been claimed,

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1 but no less than two weeks after death. If the body is  
2 cremated or reduced by natural organic reduction, the county  
3 shall ensure that the cremated or reduced remains are retained  
4 and stored for no less than two years in a manner that allows  
5 for identification of the remains. After the expiration of two  
6 years, the cremated or reduced remains may be disposed of,  
7 provided the county retains a record of the place and manner of  
8 disposition for not less than five years after such  
9 disposition."

10 SECTION 4. Section 24-13-2 NMSA 1978 (being Laws 1939,  
11 Chapter 224, Section 2, as amended) is amended to read:

12 "24-13-2. PERSONS DEEMED INDIGENT.--A deceased person  
13 shall be considered to be an indigent for purposes of Chapter  
14 24, Article 13 NMSA 1978 if [~~his~~] the deceased person's estate  
15 is insufficient to cover the cost of burial, [~~or~~] cremation or  
16 natural organic reduction."

17 SECTION 5. Section 24-13-3 NMSA 1978 (being Laws 1939,  
18 Chapter 224, Section 3, as amended) is amended to read:

19 "24-13-3. EXPENSES FOR BURIAL, [~~OR~~] CREMATION OR NATURAL  
20 ORGANIC REDUCTION.--If the unclaimed decedent had known assets  
21 or property of sufficient value to defray the expenses of  
22 cremation, [~~or~~] burial or natural organic reduction, invoices  
23 for the expenses shall be forwarded to such person or official  
24 authorized by law to be appointed administrator of the estate  
25 of the decedent, and such person or official shall pay the

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1 expenses out of the decedent's estate. To the extent that the  
2 deceased person is indigent, the burial, [~~or~~] cremation or  
3 natural organic reduction expenses shall be borne by the county  
4 of residence of the deceased person. If the county of  
5 residence of the deceased person is not known, the burial, [~~or~~]  
6 cremation or natural organic reduction expenses shall be borne  
7 by the county in which the body was found. The burial, [~~or~~]  
8 cremation or natural organic reduction expenses may be paid by  
9 the county out of the general fund or the [~~county indigent~~  
10 ~~hospital claims~~] health care assistance fund in an amount up to  
11 six hundred dollars (\$600) for the burial, [~~or~~] cremation or  
12 natural organic reduction of any adult or minor."

13 SECTION 6. Section 24-13-4 NMSA 1978 (being Laws 1939,  
14 Chapter 224, Section 4, as amended) is amended to read:

15 "24-13-4. BURIAL AFTER INVESTIGATION--COST OF OPENING AND  
16 CLOSING GRAVE.--The board of county commissioners after proper  
17 investigation shall cause any deceased indigent or unclaimed  
18 decedent to be decently interred, [~~or~~] cremated or reduced by  
19 natural organic reduction. The cost to be paid by the county  
20 of opening and closing a grave shall not exceed six hundred  
21 dollars (\$600), which sum shall be in addition to the sums  
22 enumerated in Section 24-13-3 NMSA 1978."

23 SECTION 7. Section 24-13-5 NMSA 1978 (being Laws 1939,  
24 Chapter 224, Section 5, as amended) is amended to read:

25 "24-13-5. PAYMENT OF BURIAL, [~~OR~~] CREMATION OR NATURAL

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1 ORGANIC REDUCTION EXPENSES--COMMISSIONERS' LIABILITY.--The  
2 board of county commissioners of any county within this state  
3 may authorize payment for the burial, [~~or~~] cremation or natural  
4 organic reduction of an indigent person, as defined in Section  
5 24-13-2 NMSA 1978 or of an unclaimed decedent, as defined in  
6 Section 24-13-1 NMSA 1978. All available assets of the  
7 deceased shall be used to reimburse the county for the cost of  
8 burial, [~~or~~] cremation or natural organic reduction. Should  
9 the county be required to pay expenses for burial, [~~or~~]  
10 cremation or natural organic reduction of an unclaimed decedent  
11 who has left an estate, the estate shall reimburse the county  
12 for those expenses. The county commissioners shall be liable  
13 either personally or officially to the county they represent in  
14 double the amount they have paid toward the burial, [~~or~~]  
15 cremation or natural organic reduction of a person other than  
16 as authorized by this section."

17 SECTION 8. Section 24-13-6 NMSA 1978 (being Laws 1939,  
18 Chapter 224, Section 6, as amended) is amended to read:

19 "24-13-6. MONEY FROM RELATIVES--DUTY OF FUNERAL  
20 DIRECTOR.--Should any funeral director or other person allowed  
21 by law to conduct the business of a funeral director accept  
22 money from the relatives or friend of a deceased person whom  
23 the board of county commissioners has determined to be an  
24 indigent or an unclaimed decedent, the funeral director shall  
25 immediately notify the board of county commissioners of the

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1 payment or offer for payment, and the board of county  
2 commissioners shall not thereafter pay for the burial, [~~or~~]  
3 cremation or natural organic reduction involved, or, if the  
4 board of county commissioners has already paid for the burial,  
5 [~~or~~] cremation or natural organic reduction, the funeral  
6 director shall immediately refund the money paid to [~~him~~] the  
7 funeral director by the board of county commissioners for the  
8 burial, [~~or~~] cremation or natural organic reduction."

9 SECTION 9. Section 24-13-7 NMSA 1978 (being Laws 1939,  
10 Chapter 224, Section 7, as amended) is amended to read:

11 "24-13-7. FAILURE TO NOTIFY--FUNERAL DIRECTOR'S  
12 LIABILITY.--If any funeral director or other person authorized  
13 by law to conduct the business of a funeral director receives  
14 or contracts to receive any money or thing of value from  
15 relatives or friends of a deceased alleged indigent or  
16 unclaimed decedent whose burial, [~~or~~] cremation or natural  
17 organic reduction expenses are paid or to be paid by the board  
18 of county commissioners and fails to notify the board of county  
19 commissioners of that fact, the funeral director or other  
20 person authorized by law to conduct the business of a funeral  
21 director shall be liable to the county in an amount double the  
22 amount paid or to be paid by the board of county commissioners  
23 of that county."

24 SECTION 10. Section 61-32-3 NMSA 1978 (being Laws 1993,  
25 Chapter 204, Section 3, as amended) is amended to read:

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1 "61-32-3. DEFINITIONS.--As used in the Funeral Services  
2 Act:

3 A. "board" means the board of funeral services;

4 B. "committal service" means a service at a place  
5 of interment or entombment that follows a funeral conducted at  
6 another location;

7 C. "cremains" means cremated remains;

8 D. "cremation" means the reduction of a dead human  
9 body by direct flame to a residue that includes bone fragments;

10 E. "crematory" means every place or premises that  
11 is devoted to or used for cremation and pulverization of the  
12 cremains;

13 F. "crematory authority" means the individual who  
14 is ultimately responsible for the operation of a crematory;

15 G. "department" means the regulation and licensing  
16 department;

17 H. "direct disposer" means a person licensed to  
18 engage solely in providing direct disposition at a direct  
19 disposition establishment, licensed pursuant to the Funeral  
20 Services Act, as provided in that act;

21 I. "direct disposition" means only the disposition  
22 of a dead human body as quickly as possible, without a direct  
23 disposer performing or arranging a funeral, graveside service,  
24 committal service or memorial service, whether public or  
25 private, and without embalming of the body unless embalming is

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1 required by the place of disposition;

2 J. "direct supervision" means that the supervising  
3 funeral service practitioner is physically present with and in  
4 direct control of the person being trained;

5 K. "disposition" means the final disposal of a dead  
6 human body, whether it be by earth interment, above-ground  
7 interment or entombment, cremation, natural organic reduction,  
8 burial at sea or delivery to a medical school, when the medical  
9 school assumes complete responsibility for the disposal of the  
10 body following medical study;

11 L. "embalmer" means a person licensed to engage in  
12 embalming and preparing a dead human body for funeral service  
13 at a funeral establishment that is licensed pursuant to the  
14 Funeral Services Act;

15 M. "embalming" means the disinfection, preservation  
16 and restoration, when possible, of a dead human body by a  
17 licensed funeral service practitioner, licensed embalmer or a  
18 licensed funeral service intern under the supervision of a  
19 licensed funeral service practitioner;

20 N. "ennichement" means interment of cremains in a  
21 niche in a columbarium, whether in an urn or not;

22 O. "entombment" means interment of a casketed body  
23 or cremains in a crypt in a mausoleum;

24 P. "establishment" means every office, premises or  
25 place of business where the practice of funeral service or

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1 direct disposition is conducted or advertised as being  
2 conducted and includes commercial establishments that provide  
3 for the practice of funeral service or direct disposition  
4 services exclusively to licensed funeral or direct disposition  
5 establishments or a school of medicine;

6 Q. "funeral" means a period following death in  
7 which there is an organized, purposeful, time-limited, group-  
8 centered ceremony or rite, whether religious or not, with the  
9 body of the deceased present;

10 R. "funeral arranger" means a person licensed to  
11 engage in arrangements and directing of funeral services at a  
12 funeral establishment that is licensed pursuant to the Funeral  
13 Services Act;

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

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

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

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

10          W. "general supervision" means that the supervising  
11 funeral service practitioner is not necessarily physically  
12 present in the establishment with the person being trained but  
13 is available for advice and assistance;

14          X. "graveside service" means a funeral held at the  
15 graveside only, excluding a committal service that follows a  
16 funeral conducted at another location;

17          Y. "jurisprudence examination" means an examination  
18 prescribed by the board on the statutes, rules and regulations  
19 pertaining to the practice of funeral service or direct  
20 disposition, including the Funeral Services Act, the rules of  
21 the board, state health regulations governing human remains and  
22 the Vital Statistics Act;

23          Z. "licensee in charge" means a funeral service  
24 practitioner who is ultimately responsible for the conduct of a  
25 funeral or commercial establishment and its employees; or a

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1 direct disposer who is ultimately responsible for the conduct  
2 of a direct disposition establishment and its employees;

3 AA. "make arrangements" means advising or  
4 counseling about specific details for a funeral, graveside  
5 service, committal service, memorial service, disposition or  
6 direct disposition;

7 BB. "memorial service" means a gathering of persons  
8 for recognition of a death without the presence of the body of  
9 the deceased;

10 CC. "natural organic reduction" means the  
11 contained, accelerated conversion of human remains to soil;

12 DD. "natural organic reduction authority" means the  
13 individual who is ultimately responsible for the operation of a  
14 natural organic reduction facility;

15 EE. "natural organic reduction facility" means the  
16 structure, room or other dedicated space in a building where  
17 natural organic reduction of a human body occurs;

18 FF. "natural organic reduction operator" means a  
19 person licensed to engage in reducing a dead human body by  
20 natural organic reduction that is licensed pursuant to the  
21 Funeral Services Act;

22 [~~GG.~~] GG. "practice of funeral service" means those  
23 activities allowed under the Funeral Services Act by a funeral  
24 service practitioner, funeral arranger, embalmer or funeral  
25 service intern; [~~and~~]

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1           ~~[DD-]~~ HH. "pulverization" means the process that  
2 reduces cremains to a granular substance; and

3           II. "reduced remains" means the soil that remains  
4 after a dead human body has gone through the natural organic  
5 reduction process."

6           SECTION 11. Section 61-32-4 NMSA 1978 (being Laws 1993,  
7 Chapter 204, Section 4, as amended) is amended to read:

8           "61-32-4. LICENSE REQUIRED.--

9           A. Unless licensed to practice under the Funeral  
10 Services Act, a person shall not:

11                   (1) practice as a funeral service  
12 practitioner, funeral arranger, embalmer, funeral service  
13 intern, ~~[or]~~ direct disposer or natural organic reduction  
14 operator;

15                   (2) use the title or make any representation  
16 as being a funeral service practitioner, funeral arranger,  
17 embalmer, funeral service intern, ~~[or]~~ direct disposer or  
18 natural organic reduction operator or use any other title,  
19 abbreviation, letters, figures, signs or devices that indicate  
20 the person is licensed to practice as a funeral service  
21 practitioner, funeral arranger, embalmer, funeral service  
22 intern, ~~[or]~~ direct disposer or natural organic reduction  
23 operator; or

24                   (3) maintain, manage or operate a funeral  
25 establishment, a commercial establishment, a direct disposition

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1 establishment, [Ø] a crematory or a natural organic reduction  
2 facility.

3 B. A person who engages in the practice or acts in  
4 the capacity of a funeral service practitioner, funeral  
5 arranger, embalmer, funeral service intern, [Ø] direct  
6 disposer or natural organic reduction operator in this state,  
7 with or without a New Mexico license, is subject to the  
8 jurisdiction of the state and to the administrative  
9 jurisdiction of the board and is subject to all penalties and  
10 remedies available for a violation of a provision of the  
11 Funeral Services Act.

12 C. A person who maintains, manages or operates a  
13 funeral establishment, commercial establishment, direct  
14 disposition establishment, [Ø] crematory or natural organic  
15 reduction facility in this state, with or without a New Mexico  
16 establishment, [Ø] crematory [~~license~~] or natural organic  
17 reduction facility license, is subject to the jurisdiction of  
18 the state and to the administrative jurisdiction of the board  
19 and is subject to all penalties and remedies available for a  
20 violation of a provision of the Funeral Services Act."

21 SECTION 12. Section 61-32-8 NMSA 1978 (being Laws 1993,  
22 Chapter 204, Section 8, as amended) is amended to read:

23 "61-32-8. INSPECTION--ACCESS--COUNSEL.--

24 A. Inspection of establishments, [~~and~~] crematories  
25 and natural organic reduction facilities, including all

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1 records, financial or otherwise, is authorized during regular  
2 business hours. Acceptance of a license shall include  
3 permission for the board or its designee to enter the premises  
4 without legal process.

5 B. An establishment, [~~or~~] crematory or natural  
6 organic reduction facility shall maintain business records  
7 required by law or rule at the establishment or crematory.

8 C. The board shall be represented by the attorney  
9 general. The board may employ special counsel, upon approval  
10 of the attorney general, to review and prosecute cases of  
11 consumer complaints against any person, establishment, [~~or~~]  
12 crematory or natural organic reduction facility licensed  
13 pursuant to the Funeral Services Act. Payment for the services  
14 shall be by the board."

15 SECTION 13. Section 61-32-9 NMSA 1978 (being Laws 1993,  
16 Chapter 204, Section 9, as amended) is amended to read:

17 "61-32-9. REQUIREMENTS FOR LICENSURE--FUNERAL SERVICE  
18 PRACTITIONER--FUNERAL ARRANGER--EMBALMER--FUNERAL SERVICE  
19 INTERN--DIRECT DISPOSER--NATURAL ORGANIC REDUCTION OPERATOR--  
20 CONVERSION OF CERTAIN LICENSES-- TEMPORARY LICENSES.--

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

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1 (1) is at least eighteen years of age;  
2 (2) has served as a licensed funeral service  
3 intern for not less than twelve months, under the supervision  
4 of a licensed funeral service practitioner. During the  
5 training period, the applicant shall have assisted in the  
6 embalming of at least fifty bodies, making of at least fifty  
7 funeral arrangements and the directing of at least fifty  
8 funerals;

9 (3) has successfully completed an examination,  
10 including a jurisprudence examination, prescribed by board  
11 rules;

12 (4) has successfully completed both the arts  
13 and science sections of the national board examination  
14 administered by the international conference of funeral service  
15 examining boards;

16 (5) has not been convicted of unprofessional  
17 conduct or incompetency; and

18 (6) has obtained an associate's degree in  
19 funeral science requiring the completion of at least sixty  
20 semester hours from an institution whose funeral program is  
21 accredited by the American board of funeral service education  
22 or any other successor institution offering funeral service  
23 education recognized by the United States government.

24 B. A license to practice as a funeral arranger  
25 shall be issued to any person who files a completed

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1 application, accompanied by the required fees and  
2 documentation, and who submits satisfactory evidence that the  
3 person:

4 (1) is at least eighteen years of age;

5 (2) has served as a licensed funeral service  
6 intern for not less than twelve months, under the supervision  
7 of a licensed funeral service practitioner. During the  
8 training period, the applicant shall have assisted in the  
9 making of at least fifty funeral arrangements and the directing  
10 of at least fifty funerals;

11 (3) has successfully completed an examination,  
12 including a jurisprudence examination, prescribed by board  
13 rules;

14 (4) has successfully completed the arts  
15 section of the national board examination administered by the  
16 international conference of funeral service examining boards;

17 (5) has not been convicted of unprofessional  
18 conduct or incompetency; and

19 (6) has obtained an associate's degree in  
20 funeral science requiring the completion of at least sixty  
21 semester hours from an institution whose funeral program is  
22 accredited by the American board of funeral service education  
23 or any other successor institution offering funeral service  
24 education recognized by the United States government.

25 C. A license to practice as an embalmer shall be

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1 issued to any person who files a completed application,  
2 accompanied by the required fees and documentation, and who  
3 submits satisfactory evidence that the person:

4 (1) is at least eighteen years of age;

5 (2) has served as a licensed funeral service  
6 intern for not less than twelve months, under the supervision  
7 of a licensed funeral service practitioner. During the  
8 training period, the applicant shall have assisted in the  
9 embalming of at least fifty bodies;

10 (3) has successfully completed an examination,  
11 including a jurisprudence examination, prescribed by board  
12 rules;

13 (4) has successfully completed the science  
14 section of the national board examination administered by the  
15 international conference of funeral service examining boards;

16 (5) has not been convicted of unprofessional  
17 conduct or incompetency; and

18 (6) has obtained an associate's degree in  
19 funeral science requiring the completion of at least sixty  
20 semester hours from an institution whose funeral program is  
21 accredited by the American board of funeral service education  
22 or any other successor institution offering funeral service  
23 education recognized by the United States government.

24 D. A license to practice as a funeral service  
25 intern shall be issued to any person who files a completed

1 application, accompanied by the required fees and  
2 documentation, and who submits satisfactory evidence that the  
3 person:

4 (1) is at least eighteen years of age;

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

7 (3) has submitted proof of employment and  
8 supervision as required by board rules. Except as may be  
9 allowed by board rule, a license as a funeral service intern is  
10 issued only for a specific funeral establishment or an  
11 establishment that is part of a multi-establishment enterprise;

12 (4) has successfully completed an examination,  
13 including a jurisprudence examination, prescribed by board  
14 rules; and

15 (5) has not been convicted of unprofessional  
16 conduct or incompetency.

17 E. A license to practice as a direct disposer shall  
18 be issued to any person who files a completed application,  
19 accompanied by the required fees and documentation, and who  
20 submits satisfactory evidence that the person:

21 (1) is at least eighteen years of age;

22 (2) has obtained an associate's degree in  
23 funeral science requiring the completion of at least sixty  
24 semester hours from an institution whose funeral program is  
25 accredited by the American board of funeral service education

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1 or any other successor institution offering funeral service  
2 education and recognized by the United States government;

3 (3) has successfully completed any  
4 examination, including a jurisprudence examination, prescribed  
5 by board rules; and

6 (4) has not been convicted of unprofessional  
7 conduct or incompetency.

8 F. A license to practice as a natural organic  
9 reduction operator shall be issued to any person who files a  
10 completed application, accompanied by the required fees and  
11 documentation, and who submits satisfactory evidence that the  
12 person:

13 (1) is at least eighteen years of age;

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

16 (3) has successfully completed an examination,  
17 including a jurisprudence examination, prescribed by board  
18 rules;

19 (4) has completed operator equipment training  
20 provided by the manufacturer or other board approved provider  
21 for the equipment used to perform natural organic reduction;  
22 and

23 (5) has not been convicted of unprofessional  
24 conduct or incompetency.

25 [~~F.~~] G. On and after July 1, 2012, the board shall

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1 not issue a new license that was formerly designated an  
2 "assistant funeral services practitioner" or "associate funeral  
3 services practitioner" license under a version of the Funeral  
4 Services Act in effect on June 30, 2012. A person holding one  
5 of these licenses that is valid as of June 30, 2012 shall be  
6 considered as holding a valid, renewable funeral services  
7 intern license subject to the general supervision of a licensed  
8 funeral services practitioner pursuant to the Funeral Services  
9 Act.

10 [G-] H. The board may adopt by rule requirements  
11 for issuing a temporary license that will be valid until the  
12 next scheduled board meeting."

13 SECTION 14. Section 61-32-11 NMSA 1978 (being Laws 1993,  
14 Chapter 204, Section 11, as amended) is amended to read:

15 "61-32-11. LICENSURE OF ESTABLISHMENTS--FUNERAL  
16 ESTABLISHMENTS--COMMERCIAL ESTABLISHMENTS--DIRECT DISPOSITION  
17 ESTABLISHMENTS--CREMATORIES--NATURAL ORGANIC REDUCTION  
18 FACILITIES.--

19 A. Funeral establishment licenses shall only be  
20 granted under the following terms and conditions:

21 (1) applications for licensure shall be upon  
22 forms furnished by the board and shall be accompanied by the  
23 required fee;

24 (2) the establishment shall be maintained at a  
25 specific location primarily devoted to the practice of funeral

1 service and shall comply with the following minimum  
2 requirements:

3 (a) a chapel shall be present in which  
4 funerals may be conducted;

5 (b) a display room shall be present for  
6 displaying caskets and other funeral merchandise; and

7 (c) a preparation room shall be present  
8 with necessary drainage and ventilation and necessary  
9 instruments and supplies for the preparation and embalming of  
10 dead human bodies for burial or other disposition or  
11 transportation; and

12 (3) a license shall not be issued or renewed  
13 by the board unless the establishment is in compliance with the  
14 Funeral Services Act and board rules.

15 B. Commercial establishment licenses shall only be  
16 granted under the following terms and conditions:

17 (1) applications for licensure shall be upon  
18 forms furnished by the board and shall be accompanied by the  
19 required fee;

20 (2) the establishment shall be maintained at a  
21 specific location primarily devoted to the practice allowed for  
22 a commercial establishment and shall comply with the following  
23 minimum requirements:

24 (a) a preparation room shall be present  
25 with the necessary drainage and ventilation and necessary

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1 instruments and supplies for the preparation and embalming of  
2 dead human bodies for burial or other disposition and  
3 transportation; and

4 (b) an office shall be present for  
5 conducting business; and

6 (3) a license shall not be issued or renewed  
7 by the board unless the establishment is in compliance with the  
8 Funeral Services Act and board rules.

9 C. Direct disposition establishment licenses shall  
10 only be granted under the following terms and conditions:

11 (1) applications for licensure shall be upon  
12 forms furnished by the board and shall be accompanied by the  
13 required fee;

14 (2) the establishment shall be maintained at a  
15 specific location primarily devoted to the practice allowed for  
16 a direct disposer and shall comply with the following minimum  
17 requirements:

18 (a) a room shall be present with  
19 necessary drainage and ventilation for housing a refrigeration  
20 unit;

21 (b) a refrigeration unit,  
22 thermodynamically controlled with a minimum storage area of  
23 twelve and one-half cubic feet per body, shall be present for  
24 sheltering of dead human bodies prior to burial or other  
25 disposition or transportation;

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1 (c) an office shall be present for  
2 conducting business;

3 (d) necessary supplies for safely  
4 handling unembalmed dead human bodies; and

5 (e) if funeral merchandise is made  
6 available, a display room shall be present for displaying  
7 caskets and other funeral merchandise; and

8 (3) no license shall be issued or renewed by  
9 the board unless the establishment is in compliance with the  
10 Funeral Services Act and board rules.

11 D. Crematory licenses shall only be granted under  
12 the following terms and conditions:

13 (1) applications for licensure shall be upon  
14 forms furnished by the board and shall be accompanied by the  
15 required fee;

16 (2) the crematory shall be maintained at a  
17 specific location, including a funeral, commercial or direct  
18 disposition establishment, primarily devoted to the practice  
19 allowed for a crematory and shall comply with the following  
20 minimum requirements:

21 (a) a room shall be present with  
22 necessary ventilation for housing a cremation retort;

23 (b) a cremation retort shall be present  
24 for cremating dead human bodies; and

25 (c) a unit to pulverize cremated dead

1 human bodies shall be present; and

2 (3) no license shall be issued or renewed by  
3 the board unless the crematory is in compliance with the  
4 Funeral Services Act and board rules.

5 E. Natural organic reduction facility licenses  
6 shall only be granted under the following terms and conditions:

7 (1) applications for licensure shall be upon  
8 forms furnished by the board and shall be accompanied by the  
9 required fee;

10 (2) the natural organic reduction facility  
11 shall be maintained at a specific location, including a  
12 funeral, commercial or direct disposition establishment,  
13 primarily devoted to the practice allowed for a natural organic  
14 reduction facility and shall comply with the following minimum  
15 requirements:

16 (a) a room shall be present with  
17 necessary equipment for the natural organic reduction of an  
18 unembalmed dead human body;

19 (b) a room shall be present for the  
20 processing and storage of the reduced remains; and

21 (c) necessary supplies shall be  
22 maintained for safely handling unembalmed dead human bodies;  
23 and

24 (3) no license shall be issued or renewed by  
25 the board unless the natural organic reduction facility is in

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1 compliance with the Funeral Services Act and board rules.

2           ~~[E-]~~ F. The board may adopt by rule additional  
3 requirements in the interest of public health, safety and  
4 welfare."

5           SECTION 15. Section 61-32-12 NMSA 1978 (being Laws 1993,  
6 Chapter 204, Section 12) is amended to read:

7           "61-32-12. LICENSE--DISPLAY OF LICENSE.--

8           A. Initial licenses shall be issued for the  
9 remainder of the year in which the license is granted, as  
10 established by rule.

11           B. A license issued by the board shall at all times  
12 be posted in the establishment, ~~[or]~~ crematory or natural  
13 organic reduction facility in a conspicuous place."

14           SECTION 16. Section 61-32-18 NMSA 1978 (being Laws 1993,  
15 Chapter 204, Section 18, as amended) is amended to read:

16           "61-32-18. COMMERCIAL ESTABLISHMENTS--SCOPE OF PRACTICE--  
17 LIMITATIONS.--

18           A. The scope of practice of a commercial  
19 establishment depends on the entity for whom the commercial  
20 establishment is acting as an agent and is subject to the  
21 following terms and conditions:

22                   (1) when acting under the direction of a  
23 licensed funeral establishment, the commercial establishment  
24 may:

25                           (a) engage in transportation of dead

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1 human bodies, file a certificate of death, obtain certified  
2 copies thereof and obtain necessary permits for transportation,  
3 [~~or~~] cremation or natural organic reduction;

4 (b) embalm;

5 (c) provide forwarding services;

6 (d) provide direct disposition; and

7 (e) arrange for identification of a dead

8 human body by family members only, prior to disposition or  
9 transportation;

10 (2) when acting under the direction of a  
11 licensed direct disposition establishment, the commercial  
12 establishment may:

13 (a) engage in transportation of dead  
14 human bodies, file a certificate of death, obtain certified  
15 copies thereof and obtain necessary permits for transportation,  
16 [~~or~~] cremation or natural organic reduction;

17 (b) embalm only when embalming is  
18 required by the place of disposition; and

19 (c) provide direct disposition; and

20 (3) when acting under the direction of a  
21 school of medicine, the commercial establishment may:

22 (a) engage in transportation of dead  
23 human bodies, file a certificate of death, obtain certified  
24 copies thereof and obtain necessary permits for transportation,  
25 [~~or~~] cremation or natural organic reduction; and

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1 (b) embalm.

2 B. A licensed commercial establishment shall not  
3 engage in any activity, or act for any entity, not specifically  
4 permitted in this section.

5 C. The licensee in charge shall certify to the  
6 board that the establishment will not exceed the scope of  
7 practice allowed by law."

8 SECTION 17. A new section of the Funeral Services Act is  
9 enacted to read:

10 "[NEW MATERIAL] NATURAL ORGANIC REDUCTION--REQUIREMENTS--  
11 RIGHT TO AUTHORIZE NATURAL ORGANIC REDUCTION--DISPOSITION OF  
12 REDUCED REMAINS.--

13 A. No natural organic reduction shall be performed  
14 until all necessary documentation is obtained authorizing the  
15 natural organic reduction.

16 B. An adult person may authorize the person's own  
17 natural organic reduction and the lawful disposition of the  
18 person's reduced remains by:

19 (1) stating the person's desire to be reduced  
20 by natural organic reduction in a written statement that is  
21 signed by the person and notarized or witnessed by two other  
22 persons; or

23 (2) including an express statement in the  
24 person's will indicating that the testator desired that the  
25 testator's remains be reduced by natural organic reduction upon

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1 the testator's death.

2 C. A personal representative acting pursuant to the  
3 Uniform Probate Code or an establishment or natural organic  
4 reduction facility shall comply with a statement made in  
5 accordance with the provisions of this section. A statement  
6 that conforms to the provisions of this section authorizes a  
7 personal representative, establishment or natural organic  
8 reduction facility to reduce a decedent's remains by natural  
9 organic reduction, and the permission of next of kin or any  
10 other person shall not be required for such authorization.

11 D. A personal representative, establishment or  
12 natural organic reduction facility acting in reliance upon a  
13 document executed pursuant to the provisions of this section,  
14 who has no actual notice of revocation or contrary indication,  
15 is presumed to be acting in good faith.

16 E. No establishment, natural organic reduction  
17 facility or employee of an establishment or natural organic  
18 reduction facility or other person that relies in good faith on  
19 a statement written pursuant to this section shall be subject  
20 to liability for reducing a decedent's remains by natural  
21 organic reduction in accordance with the provisions of this  
22 section. The written authorization is a complete defense to a  
23 cause of action by a person against any other person acting in  
24 accordance with that authorization.

25 F. If a decedent has left no written instructions

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1 regarding the disposition of the decedent's remains, the  
2 following persons in the order listed shall determine the means  
3 of disposition, not to be limited to natural organic reduction,  
4 of the remains of the decedent:

5 (1) the surviving spouse;

6 (2) a majority of the surviving adult children  
7 of the decedent;

8 (3) the surviving parents of the decedent;

9 (4) a majority of the surviving siblings of  
10 the decedent;

11 (5) an adult person who has exhibited special  
12 care and concern for the decedent, who is aware of the  
13 decedent's views and desires regarding the disposition of the  
14 decedent's body and who is willing and able to make a decision  
15 about the disposition of the decedent's body; or

16 (6) the adult person of the next degree of  
17 kinship in the order named by New Mexico law to inherit the  
18 estate of the decedent.

19 G. A licensed establishment or natural organic  
20 reduction facility shall keep an accurate record of all  
21 reductions by natural organic reduction performed and the place  
22 of disposition of the reduced remains for a period of not less  
23 than seven years.

24 H. Reduced remains may be disposed of by any  
25 licensed establishment, natural organic reduction authority or

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1 person having the right to control the disposition of the  
2 reduced remains, or that person's agent, in a lawful manner.

3 I. Legal forms for natural organic reduction  
4 authorization shall provide that persons giving the  
5 authorization will hold harmless an establishment from any  
6 liability for disposing of unclaimed reduced remains in a  
7 lawful manner after a period of ninety days following the  
8 return of the reduced remains to the establishment."

9 SECTION 18. A new section of the Funeral Services Act is  
10 enacted to read:

11 "[NEW MATERIAL] NATURAL ORGANIC REDUCTION FACILITY--SCOPE  
12 OF PRACTICE--LIMITATIONS.--

13 A. The scope of practice of a natural organic  
14 reduction facility and its natural organic reduction authority  
15 is limited to reduction of dead human bodies by natural organic  
16 reduction. A natural organic reduction facility and its  
17 natural organic reduction authority shall act as an agent of  
18 licensed funeral, commercial or direct disposition  
19 establishments and schools of medicine. A natural organic  
20 reduction facility and its natural organic reduction authority  
21 may:

22 (1) engage in transportation of dead human  
23 bodies to the natural organic reduction facility; and

24 (2) reduce dead human bodies by natural  
25 organic reduction.

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1           B. After completion of the natural organic  
2 reduction process, if a natural organic reduction facility and  
3 its natural organic reduction authority have not been  
4 instructed by its agent to return the reduced remains to the  
5 person that initiated the natural organic reduction services  
6 contract, the natural organic reduction authority shall return,  
7 or cause to be returned, the reduced remains to the  
8 establishment no later than thirty days after the date of  
9 natural organic reduction.

10           C. A natural organic reduction facility and its  
11 natural organic reduction authority shall maintain a system or  
12 process that ensures that any dead human body in the natural  
13 organic reduction facility's possession can be specifically  
14 identified throughout all phases of the natural organic  
15 reduction process.

16           D. A natural organic reduction facility shall keep  
17 an accurate record of all decedents reduced by natural organic  
18 reduction for a period of not less than seven years.

19           E. The natural organic reduction facility and its  
20 natural organic reduction authority shall certify to the board  
21 that the natural organic reduction facility will not exceed the  
22 scope of practice allowed by law.

23           F. A licensed natural organic reduction facility  
24 shall not engage in any activity not specifically permitted in  
25 this section."

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1           SECTION 19. Section 61-32-24 NMSA 1978 (being Laws 1993,  
2 Chapter 204, Section 24, as amended) is amended to read:

3           "61-32-24. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW.--

4           A. The board, in accordance with the procedures set  
5 forth in the Uniform Licensing Act, may take disciplinary  
6 action against any licensee, temporary licensee or applicant.

7           B. The board has the authority to take any action  
8 set forth in Section 61-1-3 NMSA 1978 upon a finding by the  
9 board that the applicant or licensee is guilty of any of the  
10 following acts of commission or omission:

11                   (1) conviction of an offense punishable by  
12 incarceration in a state penitentiary or federal prison;  
13 provided that the board receives a copy of the record of  
14 conviction, certified to by the clerk of the court entering the  
15 conviction, which shall be conclusive evidence of the  
16 conviction;

17                   (2) fraud or deceit in procuring or attempting  
18 to procure a license;

19                   (3) gross negligence or incompetence;

20                   (4) unprofessional or dishonorable conduct,  
21 which includes:

22                           (a) misrepresentation or fraud;

23                           (b) false or misleading advertising;

24                           (c) solicitation of dead human bodies by  
25 the licensee or the licensee's agents, assistants or employees,

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1 whether the solicitation occurs after death or while death is  
2 impending; provided that this shall not be deemed to prohibit  
3 general advertising;

4 (d) solicitation or acceptance by a  
5 licensee of a commission, bonus or rebate in consideration of  
6 recommending or causing a dead human body to be disposed of in  
7 a cemetery, mausoleum, ~~[or]~~ crematory or natural organic  
8 reduction facility;

9 (e) using any funeral merchandise  
10 previously purchased, in whole or in part, except for  
11 transportation purposes, without prior written permission of  
12 the person selecting or paying for the use of the merchandise;  
13 and

14 (f) failing to make disposition of a  
15 dead human body in the enclosure or container that was  
16 purchased for that purpose by the arrangers;

17 (5) violation of the provisions of the Funeral  
18 Services Act or a rule of the board;

19 (6) violation of any local, state or federal  
20 ordinance, law or regulation affecting the practice of funeral  
21 service, direct disposition, ~~[or]~~ cremation or natural organic  
22 reduction, including the Prearranged Funeral Plan Regulatory  
23 Law or any regulations ordered by the superintendent of  
24 insurance;

25 (7) willful or negligent practice beyond the

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1 scope of the license issued by the board;

2 (8) refusing to release properly a dead human  
3 body to the custody of the person or entity who has the legal  
4 right to effect the release, whether or not the authorized cost  
5 has been paid. If an establishment receives a dead human body  
6 for funeral services but the body is subsequently transferred  
7 to another establishment that completes or performs funeral  
8 services, the subsequent establishment shall be responsible for  
9 all reasonable nonprofessional service charges incurred by the  
10 next previous establishment prior to and including transfer of  
11 the body and the subsequent establishment shall reimburse the  
12 next previous establishment for those charges;

13 (9) failure to secure a necessary permit  
14 required by law for removal from this state, ~~[or]~~ cremation or  
15 the natural organic reduction of a dead human body;

16 (10) knowingly making a false statement on a  
17 certificate of death;

18 (11) failure to give full cooperation to the  
19 board or one of its committees, staff, inspectors or agents or  
20 an attorney for the board in the performance of official  
21 duties;

22 (12) having had a license, certificate or  
23 registration to practice revoked, suspended or denied in any  
24 jurisdiction, territory or possession of the United States or  
25 another country for actions of the licensee or applicant

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1 similar to acts described in this subsection. A certified copy  
2 of the record of the jurisdiction taking the disciplinary  
3 action is conclusive evidence of the violation;

4 (13) failure to supervise adequately  
5 subordinate personnel;

6 (14) conduct unbecoming a licensee or  
7 detrimental to the safety or welfare of the public;

8 (15) employing fraudulent billing practices;  
9 or

10 (16) practicing funeral service, ~~[or]~~  
11 cremation or natural organic reduction without a current  
12 license.

13 C. In addition to the offenses listed in Subsection  
14 B of this section, the board has the authority to take any  
15 action set forth in Section 61-1-3 NMSA 1978 upon a finding by  
16 the board that a person who is licensed as or is an applicant  
17 for a license as a funeral service practitioner, embalmer,  
18 funeral arranger or funeral service intern is guilty of any of  
19 the following acts of commission or omission:

20 (1) practicing funeral service without a  
21 license or aiding or abetting an unlicensed person to practice  
22 funeral service; or

23 (2) permitting a funeral service intern to  
24 exceed the limitations set forth in the provisions of the  
25 Funeral Services Act or the rules of the board.

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1           D. In addition to the offenses listed in Subsection  
2 B of this section, the board has the authority to take any  
3 action set forth in Section 61-1-3 NMSA 1978 upon a finding by  
4 the board that a direct disposer licensee or a direct  
5 disposition establishment licensee is guilty of any of the  
6 following acts of commission or omission:

7                   (1) embalming, restoring, acting as a  
8 cosmetician or in any way altering the condition of a dead  
9 human body, except for washing and dressing;

10                   (2) causing a body to be embalmed when  
11 embalming is not required by a place of disposition;

12                   (3) prior to interment, entombment or other  
13 final disposition of a dead human body, participating in any  
14 rites or ceremonies in connection with such final disposition  
15 of the body, or providing facilities for any such rites or  
16 ceremonies;

17                   (4) reclaiming, transporting or causing to be  
18 transported a dead human body after written release for  
19 disposition; or

20                   (5) practicing direct disposition without a  
21 license or aiding or abetting an unlicensed person to practice  
22 direct disposition.

23           E. In addition to the offenses listed in Subsection  
24 B of this section, the board has the authority to take any  
25 action set forth in Section 61-1-3 NMSA 1978 upon a finding by

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1 the board that a crematory or natural organic reduction  
2 facility licensee or applicant, or a crematory authority or a  
3 natural organic reduction authority is guilty of any of the  
4 following acts of commission or omission:

5 (1) engaging or making any representation as  
6 engaging in the practice of funeral service or direct  
7 disposition, unless the applicant, [~~or~~] crematory authority or  
8 natural organic reduction authority has a license to practice  
9 funeral service or direct disposition;

10 (2) operating a crematory or natural organic  
11 reduction facility without a license or aiding and abetting a  
12 crematory or natural organic reduction facility to operate  
13 without a license; or

14 (3) engaging in conduct or activities for  
15 which a license to engage in the practice of funeral service or  
16 direct disposition is required or aiding and abetting an  
17 unlicensed person to engage in conduct or activities for which  
18 a license to practice funeral service or direct disposition is  
19 required.

20 F. Unless exonerated by the board, persons who have  
21 been subjected to formal disciplinary sanctions by the board  
22 shall be responsible for the payment of costs of the  
23 disciplinary proceedings, which include costs for:

24 (1) court reporters;

25 (2) transcripts;

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- 1 (3) certification or notarization;
- 2 (4) photocopies;
- 3 (5) witness attendance and mileage fees;
- 4 (6) postage for mailings required by law;
- 5 (7) expert witnesses; and
- 6 (8) depositions.

7 G. All fees, fines and costs imposed on an  
8 applicant, licensee, establishment, ~~[or]~~ crematory or natural  
9 organic reduction facility shall be paid in full to the board  
10 before an initial or renewal license may be issued."

11 SECTION 20. Section 61-32-30 NMSA 1978 (being Laws 1993,  
12 Chapter 204, Section 30, as amended) is amended to read:

13 "61-32-30. CRIMINAL PENALTIES.--A person who commits any  
14 of the following acts is guilty of a misdemeanor and upon  
15 conviction shall be punished by a fine of not less than one  
16 hundred dollars (\$100) or more than one thousand dollars  
17 (\$1,000) or by imprisonment of less than one year, or both:

18 A. violation of any provision of the Funeral  
19 Services Act;

20 B. rendering or offering to render funeral  
21 services, direct disposition services, ~~[or]~~ cremation services  
22 or natural organic reduction services without a current valid  
23 license issued pursuant to the Funeral Services Act; or

24 C. advertising or using any designation, diploma or  
25 certificate tending to imply that the person is a practitioner

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1 of funeral services, direct disposition services, ~~[or]~~  
2 cremation services or natural organic reduction services  
3 without a current valid license issued pursuant to the Funeral  
4 Services Act."

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