

NEW MEXICO BOARD OF FUNERAL SERVICES
NEW MEXICO REGULATION AND LICENSING DEPARTMENT
BOARDS AND COMMISSIONS DIVISION

RULE HEARING

Regulation and Licensing Department
Toney Anaya Building, 2nd Floor
Rio Grande Conference room
2550 Cerrillos Road
Santa Fe, New Mexico 87505

Monday, July 2, 2012
9:00 a.m.

REPORTED BY: MICHELE NELSON, NM P-401
Williams & Associates, LLC
1608 Fifth Street, Northwest
Albuquerque, NM 87102

1 CHAIRMAN BACA: We will open this hearing. This
2 hearing will please come to order. I am Chairman Sam Baca
3 from the New Mexico Board of Funeral Services. I'll be
4 acting as a deciding officer for this rule hearing.

5 The purpose of this hearing is for the Board to
6 receive public comments to the proposed amendments in the
7 Board's current rules and regulations, 16.64 NM AC.

8 The Board will consider everyone present at this
9 meeting. This meeting is being conducted pursuant to and
10 in accordance with the provisions of the New Mexico
11 Funeral Services Act, NM Statute, annotated 1978, Article
12 32, Section 61.321 through 61.3232, and the Uniform
13 Licensing Act, New Mexico Statute, annotated 1978, 1015-1
14 through 1015-4, New Mexico Statute, annotated 1978,
15 Section 61.1-29.

16 The New Mexico Lobbyist Regulation Act regulates
17 activities that come before the Boards and Commissions in
18 rule-making proceedings. The Secretary of State's office
19 can be contacted for information and registration.

20 Notice of this hearing was advertised in the New
21 Mexico Register on May the 31st, as well as the
22 Albuquerque Journal on May 23rd, 2012.

23 Copies of the Board's rules were available from
24 the Board office, the Board website and also e-mailed to
25 all persons who requested them. Copies of the proposed

1 rule amendments are also available on the table located
2 near the back door.

3 May I remind everyone to please sign the
4 attendance sheet which will later be entered as an exhibit
5 into the record for this hearing.

6 Will the Board Administrator, Roberta Perea, call
7 the roll for the Board present for this hearing?

8 MS. PEREA: Sam Baca.

9 MR. BACA: Present.

10 MS. PEREA: Tommy Crow.

11 MR. CROW: Present.

12 MS. PEREA: Bradley Brane.

13 MR. BRANE: Here.

14 MS. PEREA: Charles Moon.

15 MR. MOON: Present.

16 CHAIRMAN BACA: Let the record show that Robert
17 Perea the Board Administrator is present. Assistant
18 Attorney General Sean Conniff -- will be our Board's legal
19 counsel -- is also present.

20 For the record, will the members of the audience
21 introduce themselves and state their affiliation.

22 Members of the audience?

23 MR. TRUJILLO: Sure. I'll start out.

24 Mr. Chairman, good morning, members of the Board, good
25 morning. My name is T.J. Trujillo. I'm legal counsel for

1 the Coalition of Funeral Directors, and we intend on
2 presenting evidence for purposes of today's hearing. I'll
3 let the other members of the coalition, I guess, introduce
4 themselves. Several folks are here. Also here with
5 co-counsel Morris Chavez, and I will let him introduce
6 himself.

7 MR. CHAVEZ: Mr. Chairman, Morris Chavez, from
8 Saucedo Chavez, a Professional Corporation, co-counsel
9 with Mr. Trujillo representing the Coalition of Funeral
10 Directors.

11 MR. TERRAZAS: I'm Luis Terrazas, Terrazas
12 Funeral Chapels in Silver City and in Deming.

13 MR. ALVIDREZ: Al Alvidrez, independent.

14 MR. ROGERS: Billy Rogers, Gonzales Funeral Home
15 in Las Vegas.

16 MR. KIRIKOS: Michael Kirikos, Kirikos Family
17 Funeral Home, Truth or Consequences, New Mexico.

18 MR. BETHANY: Darrel Bethany, Anderson Bethany
19 Funeral Home, Roswell, New Mexico.

20 MR. FINEGAN: Charlie Finegan, Riverside Funeral
21 Home of Albuquerque, Los Lunas, and New Mexico Mortuary
22 Services.

23 MS. MISONER: Direct Funeral Services,
24 Albuquerque.

25 MR. PRESTON: Grant Preston, Harris-Hanlon

1 Mortuary in Moriarty and Mountainair.

2 MS. SALAZAR: Gloria Salazar with Reflections in
3 Life Celebrations in Albuquerque, New Mexico.

4 MR. SALAZAR: Louis Salazar, Reflections Funerals
5 in Life Celebrations in Albuquerque, New Mexico.

6 MS. SALAZAR: Hi, my name is Jennifer Salazar and
7 I'm here from the Attorney General's office.

8 CHAIRMAN BACA: Sir?

9 MR. MOON: I'm Mr. James Moon.

10 MR. TRUJILLO: T.J. Trujillo with Gallagher and
11 Kennedy.

12 MS. NARANJO: Rebecca Naranjo, Regulation and
13 Licensing Department.

14 MR. SANDOVAL: Patrick Sandoval, Regulation and
15 Licensing.

16 CHAIRMAN BACA: Welcome. This is a formal
17 proceeding that is being recorded. Anyone interested in a
18 copy of this make his or her own arrangements to purchase
19 a copy from the Board office.

20 In order to ensure that the proceedings are
21 accurately recorded, only one person at a time will be
22 allowed to speak. Any person recognized to address the
23 Board is asked to identify yourself for the record each
24 time you address the Board. Speak loudly and clearly so
25 the reporter can pick up your comments.

1 This hearing will be conducted in the following
2 manner. Ms. Perea will present exhibits to the Board. I,
3 as the presiding officer, will rule on the admissibility
4 of the exhibits offered for admission after allowing
5 questions from the Board members.

6 Exhibits submitted into evidence are available
7 for review by members of the public. However, exhibits
8 may not be removed from the room. After Ms. Perea offers
9 exhibits and their admission is ruled upon, I will open
10 the hearing for comments by the audience.

11 We will proceed in numerical sequence through
12 each proposed rule. We will address only one rule at a
13 time; however, you may refer to other rules that basically
14 relate to that rule discussed or which relate to your
15 comments.

16 The New Mexico Board of Funeral Services must not
17 follow the rules of evidence, but shall, in the interest
18 of efficiency, reserve the right to limit all testimony
19 deemed irrelevant, redundant or unduly repetitious. The
20 decision as to whether such testimony is irrelevant,
21 redundant or unduly repetitious shall be made by me as the
22 presiding officer.

23 May I have a show of hands on the number of
24 people who intend to testify or comment on the proposed
25 rules?

1 Thank you. After a person has testified or
2 offered comment, I will permit Board members to question
3 that person. Any member of the audience wishing to
4 question that person may do so after being recognized by
5 the presiding officer, myself. Each person recognized to
6 speak shall identify himself or herself for the record.

7 Discussion on the rules by The Board will take
8 place during the Board's regular meeting following this
9 hearing. Final actions, such as actual amendments,
10 adoption, tabling, and so forth, will also be taken into
11 the meeting following this hearing.

12 This hearing is now open.

13 Ms. Perea, at this time, do you have any exhibits
14 to introduce into evidence?

15 MS. PEREA: Chair Baca, I have the following
16 exhibits to enter into evidence:

17 Exhibit Number 1: The legal notice published in
18 the New Mexico Register on May 31st, 2012, the required
19 minimum of 30 days advance notice for a public rule
20 hearing;

21 Exhibit Number 2: The legal chapter name change
22 notice published in the New Mexico Register on May 31st,
23 2012, the required minimum of 30 days advance notice for a
24 public rule hearing;

25 Exhibit Number 3: The meeting notice sent to

1 interested parties on June 5th, 2012;

2 Exhibit Number 4: The legal notice published in
3 the Albuquerque Journal on May 31st, 2012, more than the
4 required minimum of 30 days advance notice for a public
5 hearing;

6 Exhibit Number 5: Proposed amendments to Part 1
7 of 16.64 NMAC "General Provisions";

8 Exhibit Number 6: Proposed amendments to Part 2
9 of 16.64 NMAC "Fees";

10 Exhibit Number 7: Proposed amendments to Part 3
11 of 16.64 NMAC "Requirements for Licensure";

12 Exhibit Number 8: Proposed amendments to Part 4
13 of 16.64 NMAC "Requirements for Establishments and
14 Crematories";

15 Exhibit Number 9: Proposed amendments to Part 5
16 of 16.64 NMAC "Examinations";

17 Exhibit Number 10: Proposed amendments to Part 6
18 of 16.64 NMAC "Continuing Education";

19 Exhibit Number 11: Proposed amendments to Part 7
20 of 16.64 NMAC "License Renewal";

21 Exhibit Number 12: Proposed amendments to Part 8
22 of 16.64 NMAC "Funeral Service Intern Practices";

23 Exhibit Number 13: Proposed amendments to Part 9
24 of 16.64 NMAC "Directed Disposition Practices";

25 Exhibit Number 14: Proposed amendments to Part

1 10 of 16.64 NMAC "Cremation practices";

2 Exhibit Number 15: Proposed amendments to Part
3 11 of 16.64 NMAC "Complaints";

4 Exhibit Number 16: Proposed amendments to Part
5 12 of 16.64 NMAC "Parental Responsibilities Act
6 Compliance";

7 Exhibit Number 17: Public comments submitted by
8 Anthony Trujillo of Gallagher and Kennedy.

9 CHAIRMAN BACA: Are there any questions from the
10 Board members?

11 Let the record show that no one from the Board
12 had any comments.

13 Exhibits 1 through 17 are hereby admitted into
14 the record.

15 Ms. Perea, are there any other exhibits to enter
16 into the record?

17 MS. PEREA: Chair Baca, there are none.

18 CHAIRMAN BACA: Any persons wishing to testify or
19 who wish to submit evidence with their comments shall do
20 so when they are recognized to testify.

21 This document shall be introduced as an exhibit.
22 Board members will be permitted to ask questions before I
23 rule on the accountability of the evidence into the
24 record.

25 Upon admissibility, each exhibit will be marked

1 and numbered and entered into the record.

2 At this time, each proposed rule will be
3 introduced in turn into the record, and the floor will be
4 open for testimony and comments from the audience on each
5 rule.

6 Members of the Hearing Board or of the audience
7 may question each witness upon being recognized to speak.

8 Would anyone wish to comment on Part 1, General
9 Provisions?

10 None?

11 Would anyone wish to comment --

12 MR. TRUJILLO: Mr. Chairman, if I may, and I
13 guess --

14 CHAIRMAN BACA: Please introduce yourself.

15 MS. PEREA: State your name.

16 MR. TRUJILLO: Mr. Chairman, again, T.J. Trujillo
17 with Gallagher and Kennedy, representing a Coalition of
18 Funeral Directors -- that, I can go into more specifically
19 when we get to some of the comments, some of the
20 substantive technical comments. However, I do have kind
21 of a procedural question, I guess, with respect to the
22 evidence as we're going through rule by rule. My
23 assumption is there is a proponent of this particular rule
24 and the different changes reflected in there, and I was
25 uncertain if any evidence is going to be presented by the

1 proponent.

2 Is that going to be the Board proponent first,
3 anyone challenging it, or is anyone -- let me back up and
4 actually say this, Mr. Chairman.

5 In Exhibit 17 that was admitted into evidence,
6 which was the document that I submitted on behalf of the
7 Coalition, that document requests any kind of evidence
8 that was submitted by the proponents of the particular
9 rule change. I did get a phone call from the Board, and
10 it was my understanding that there has been no evidence
11 submitted. I didn't know if that had changed from now
12 until this point of time.

13 It sounded like no evidence -- additional
14 evidence supporting the rule changes has been submitted,
15 so I didn't know for purposes of today's hearing if the
16 proponent of the rule is going to go first, and then any
17 kind of objections to the rule changes, or is there a
18 particular sequence?

19 MR. CUNNIFF: Mr. Chairman, you can allow the
20 members of the public to address the Board in a
21 first-come-first-serve kind of format, I think.

22 CHAIRMAN BACA: Okay.

23 MR. TRUJILLO: That answers my question.

24 CHAIRMAN BACA: Thank you, sir.

25 Would anyone wish to comment on Part 2, Fees?

1 (No response.)

2 CHAIRMAN BACA: Would anyone wish to comment on
3 Part 3, Requirements for Licensure?

4 (No response.)

5 CHAIRMAN BACA: Would anyone wish to comment on
6 Part 4, Requirements for Establishments and Crematories?

7 Yes, sir.

8 MR. TRUJILLO: Mr. Chairman, T.J. Trujillo,
9 again, for Gallagher and Kennedy for Coalition of Funeral
10 Directors.

11 MR. CUNNIFF: Mr. Chairman, it might be better if
12 the witnesses or the folks that are testifying come up
13 front.

14 MR. TRUJILLO: Okay.

15 MR. CUNNIFF: Yes, please.

16 MR. TRUJILLO: Mr. Chairman, again. T.J.
17 Trujillo on behalf of the Coalition of Funeral Directors.

18 Several of my clients would like to comment on
19 Part 4 on several provisions. Again, going back to my
20 initial question about the order and sequence, we are
21 opposing several aspects of the rule. And so at this time
22 our intention is to present evidence as to why such rule
23 changes should not be adopted.

24 With that being said, Chairman, I'm going to have
25 each one of the witnesses give some statements, and I may

1 need to ask some follow-up questions to help the witness
2 to help elicit any additional testimony, if that is fine
3 in terms of the procedural rules.

4 CHAIRMAN BACA: That's fine.

5 MR. TRUJILLO: Thank you, Mr. Chairman.

6 MR. CUNNIFF: Mr. Trujillo, can you clarify that
7 you represent -- that your clients are a group of funeral
8 services directors? Is it your inclination to advise the
9 Board of who those folks are?

10 MR. TRUJILLO: Mr. Chairman, Counsel, yes, I was
11 going to call each one of the witnesses up. These are my
12 clients. Thank you for clarifying that. I want to
13 clarify that. Each witness that I call up are part of the
14 Coalition that we represent and are my clients.

15 But we'll jump ahead to that and -- just so it's
16 clear.

17 MR. CHAVEZ: Mr. Chairman, Morris Chavez,
18 Co-Counsel representing the Coalition. As a point of
19 clarification, are we going to have an opportunity to
20 question the proponents of this rule, and whom might that
21 be?

22 CHAIRMAN BACA: Yes, you may address the Board.

23 MR. CHAVEZ: Okay. So is it fair to assume that
24 the Board, then, is the proponent of these rules?

25 CHAIRMAN BACA: Exactly.

1 MR. CHAVEZ: Okay.

2 CHAIRMAN BACA: The Board had the rule hearings
3 and came up with the final draft that's being discussed
4 here today.

5 MR. CHAVEZ: Thank you, Mr. Chairman.

6 MR. TERRAZAS: Luis Terrazas of Terrazas Funeral
7 Chapels. One of our issues is on the waiver of the
8 preparation room. We strongly oppose the waiver on the
9 preparation room. I would like to -- because I don't know
10 how to formally do this -- I'd like for the Board to
11 distribute the application, the process, the actual
12 application for licensure of an establishment or
13 crematory, the requirements for a preparation room.

14 I wanted to show that. But the reason --

15 MR. TRUJILLO: Let me have you pause real quick.

16 Mr. Chairman, so that everyone is looking at the
17 same document, if I may give this to the staff to be able
18 to distribute. I believe we have 10 copies, I think is
19 what the notice said. I'll ask a few questions to get you
20 to where you can introduce this, Mr. Chairman, as the
21 documents are being distributed.

22 Mr. Terrazas, are you familiar with the
23 document?

24 MR. TERRAZAS: The application?

25 MR. TRUJILLO: The application.

1 MR. TERRAZAS: Yes, sir.

2 MR. TRUJILLO: And how are you familiar with that
3 document? Did you have to file that application in order
4 to open up an establishment or crematory?

5 MR. TERRAZAS: Several times.

6 MR. TRUJILLO: Mr. Chairman, I would like to move
7 to admit -- I guess this would be 18. Do you want to go
8 in sequence, or do you want to do --

9 MR. CUNNIFF: In sequence.

10 MR. TRUJILLO: Mr. Chairman, I would like to move
11 to admit the document you have before you, which is
12 Exhibit 18, I believe, into the record.

13 CHAIRMAN BACA: Counsel, I have a question. This
14 is the application for the State Board of Medical
15 Practice. We are now the Board of Funeral Service.

16 MR. TERRAZAS: It's the application.

17 CHAIRMAN BACA: Let me -- I would like to ask the
18 staff: Is this the same form that will be -- changes that
19 are being made -- it will be changed to be made to this?

20 MR. CUNNIFF: Well, Mr. Chairman --

21 CHAIRMAN BACA: Let's ask the witness why this is
22 deemed proper.

23 MR. TRUJILLO: I will, Mr. Chairman. Maybe if I
24 could ask some questions to establish a foundation as to
25 leading to where -- why this exhibit is proper.

1 Mr. Terrazas, with respect to Exhibit 18, what
2 has been your experience in dealing with Exhibit 18?

3 MR. TERRAZAS: It's the -- it's what we currently
4 have to fill out in order to get -- fill out -- it's
5 currently what we have to fill out as an application to
6 become a new establishment or crematory. And so these are
7 the requirements and each section that is required for us
8 to have in place prior to inspection to get approved by
9 the Board for -- open for licensure.

10 MR. TRUJILLO: And in your opening comments,
11 Mr. Terrazas, you indicated that one of the concerns you
12 had was with the requirement, Part 4, dealing with
13 preparation rooms; is that correct?

14 MR. TERRAZAS: That's correct.

15 MR. TRUJILLO: And, Mr. Terrazas, does Exhibit 18
16 address preparation rooms somewhere in Exhibit 18?

17 MR. TERRAZAS: It does have a section here what
18 is required for the preparation/embalming room, and it
19 lists a number of -- just a number of boxes of what I
20 understood to be their requirements to meet that
21 requirement.

22 MR. TRUJILLO: Mr. Terrazas, why is that
23 important?

24 MR. TERRAZAS: That's important -- well, you
25 know, I'm going -- the preparation room is a foundation of

1 a funeral establishment. That's where we care for human
2 remains. And so it is a room that -- it's preparation --
3 I'm going to kind of expand a little bit here.

4 Embalming is just the beginning of the process.
5 All funeral homes have to continue with other
6 preparations. Sometimes we deal with leakage, purge, skin
7 stiff and other problems that arise depending on the
8 situation of the human remains, or it has been due to an
9 accident, autopsy, or just as a result of the elements.

10 And so, in this list, it lists -- and number one,
11 I am strongly opposed to removing any preparation room in
12 any home because it is something that we need for public
13 health safety. It is something that we should have.

14 How do we deal with purge? Some of these things
15 that are listed here on the preparation room. How do we
16 handle the OSHA requirements or disposing of medical
17 waste? And those are federal requirements. How do we
18 protect our employees with gloves, and other -- if you'll
19 just go through this list, there's a number of things that
20 we -- that are required for us to have.

21 And when we have an establishment and we're
22 handling a case, sometimes things arise before the viewing
23 or whatever. You also have a gap here of 50 miles, and --
24 which, in turn, is very long, very distant. It's a long
25 distance between two funeral homes to have to care for the

1 human remains.

2 Keep in mind those are the two points from two
3 different establishments. Outside of that, the furthest
4 point of the -- we'll call the "central care facility,"
5 that second can still be caring for people that are
6 another 50, 75, 100 miles. I mean, we do this all the
7 time. We reach -- in our area alone, we sometimes go out
8 to the reserve. It's a long distance.

9 And then on top of that, you have another 50
10 miles before you reach your central care facility, if
11 that's what you choose to do.

12 My issue on that is, number one, of course, the
13 public. You know, the public health -- the public
14 health. And then I don't know how you're going to dissect
15 what you're going to pick and choose. Because a waiver --
16 from the conversation that we had during the legislative
17 session was that the waiver was going to be on size.

18 And the way I'm reading it here in your proposal
19 is that it's a complete waiver. I mean, it's very vague.
20 It's not concise. And it opens up -- you know, in my
21 opinion, it opens up -- a complete waiver -- is it a
22 waiver of just inspection in that room? Is it a waiver in
23 not requiring a room at all? What components of the room
24 are not going to be required? Those are all things that
25 are important.

1 Now, as far as currently, and this is what I
2 still don't understand, currently, you don't have to
3 have -- there are funeral homes in the Albuquerque area
4 and other areas that do centralize embalming as we speak.
5 They actively are doing that. They don't need -- we don't
6 need a rule to allow them to do that at this current time.

7 French Mortuary, other corporations or other
8 entities, sometimes central embalm to be efficient and
9 economic. We understand that. But they still maintain
10 and should be maintaining a facility to care for human
11 remains. You know, that's what the funeral establishment
12 is.

13 So currently they have these other facilities,
14 but if it allows, or if the situation arises that a body
15 needs to be cared for in leakage, they have currently the
16 facilities to fix that.

17 And so I don't understand why we would need a
18 rule to say that you can do a central embalming when right
19 now it is being practiced as we speak and has been for
20 many years. And so that's where I stand with that. I
21 believe it's a long distance, and I guess since I'm up --
22 because there's also another issue here on the --

23 MR. TRUJILLO: Mr. Chairman, in order to make
24 things efficient, I know there are some parties that are
25 not represented that will probably give general

1 statements. I've been in different rule-making
2 proceedings before in regulation and licensing. In some
3 instances, the Board would like the witness to give all
4 the comments without any questions by law counsel.

5 Other instances, I've seen situations where to
6 chop up and break up these pieces of testimony, sometimes
7 they like counsel to guide the witness.

8 I'm open with our witnesses to do either. I let
9 them comment first, but whatever is most efficient for you
10 as the Board, we're willing to engage in that process.

11 MR. CUNNIFF: Mr. Chairman, it's completely up
12 to your discretion what sort of format you would like to
13 pursue.

14 How many folks do you have testifying today,
15 Mr. Trujillo?

16 MR. TRUJILLO: If I can make a suggestion so we
17 don't have repetitive and redundant testimony,
18 Mr. Chairman. My recommendation, if you would allow me
19 to, I guess, call the rest of my witnesses up, I have --
20 where is my list? I have six people. Maybe we should go
21 back to here and have the six people and allow each one to
22 testify on the rule, and then you can ask questions, if
23 the Board wants. Maybe the panel as a whole, that may be
24 more efficient instead of me introducing some questions
25 and everyone has to ask the same kind of questions back.

1 So you'll have a panel of at least our experts and our
2 witnesses. You could ask questions. It may be a little
3 bit more efficient.

4 CHAIRMAN BACA: I thought Mr. Terrazas was
5 representing the Coalition on this side.

6 MR. TRUJILLO: No. We're going to introduce --
7 Mr. Chairman, just so we're clear, we're going to
8 introduce evidence from each one of the particular
9 witnesses, all six witnesses on different aspects,
10 technical aspects of the issue, so we won't be repetitive
11 to the same issues because each one is going to introduce
12 a different piece of evidence.

13 But I'm saying to make it easy to cross, you may
14 want to do it as a panel.

15 MR. CUNNIFF: Mr. Chairman, you may want to
16 generally follow -- I think that's a good suggestion for
17 efficiency, but perhaps the Board wants to reserve the
18 right to ask a question after a particular witness or some
19 burning inquiry on someone's mind so we don't lose it with
20 an eye towards efficiency in general.

21 CHAIRMAN BACA: Are there any questions from the
22 Board of Mr. Terrazas?

23 MR. CUNNIFF: Mr. Chairman, you may also want to
24 address whether or not this exhibit will be admitted.

25 CHAIRMAN BACA: Is it the pleasure of the Council

1 to admit this Exhibit 18 into evidence?

2 MR. CUNNIFF: And just for the sake of the
3 record, Mr. Chairman, it's my understanding this is the
4 current application --

5 MR. TRUJILLO: Yes.

6 MR. CUNNIFF: -- that an applicant would utilize
7 if they applied for a license today? Is that the
8 understanding of the Board?

9 MS. PEREA: Right now it is until the rule goes
10 into effect.

11 CHAIRMAN BACA: Okay. It is until such rule goes
12 into effect.

13 MR. CROW: Mr. Chairman, if I'm not mistaken,
14 even once the rule goes into effect, the application
15 should remain the same, because if they wish to do a
16 centralized embalming, they have to file a waiver. So
17 even if you build a funeral home, we are still required
18 under statutes to have an embalming room unless we ask for
19 a waiver after the fact.

20 CHAIRMAN BACA: Right. That's true.

21 MR. CUNNIFF: Mr. Chairman, if you would, rule on
22 the admissibility of that exhibit. Have you ruled on the
23 admissibility of that exhibit?

24 CHAIRMAN BACA: Do we move on the admissibility
25 of this exhibit?

1 MR. CROW: I make a motion that we accept Exhibit
2 Number 18.

3 MR. BRANE: I second.

4 CHAIRMAN BACA: Moved and seconded. All in favor
5 say aye.

6 (All say aye.)

7 CHAIRMAN BACA: Let's enter it into the record.

8 MR. CROW: Mr. Terrazas, may I ask you a
9 question?

10 MR. TERRAZAS: Sure.

11 MR. CROW: Do you feel if the Board allows this
12 to go through -- and you know, I don't particularly agree
13 with it myself, but I'm only one member of the Board -- do
14 you feel the next time you come through this process, the
15 next time is going to be remove the chapel, or the next
16 time is going to remove the casket where eventually all we
17 have is an office and our car?

18 MR. TERRAZAS: I agree with that. My feeling is,
19 sir, is it Mr. Crow? All right?

20 MR. CROW: Yes, that's fine.

21 MR. TERRAZAS: -- my feeling is that is opening a
22 door and this is the cornerstone of what we do. This is
23 public health. I mean, we're not talking about removing
24 the lobby. We're not talking about not requiring a hearse
25 or -- I mean, those are things that are important, but not

1 like this. This is the keystone of -- this is why we are
2 a funeral home. This is to handle human remains. And if
3 we don't have -- if you want to call yourself a funeral
4 service establishment, you should have and maintain the
5 facilities needed, and this is the keystone of all of it.

6 I mean, that's where it starts. I mean, because
7 public health is -- really, our primary goal is to keep
8 disease from being spread, and it is important for us to
9 have that.

10 Now, I believe that if we start breaking off
11 this, it could very easily lead to additional rule changes
12 that possibly could -- to piece it apart and end up with
13 just a lobby and a chapel or a lobby -- or a car and a
14 little office, you know, possibly these little satellite
15 places all over. That's what's done in Mexico. And it's
16 not -- and if you've ever experienced anything like that,
17 they have a lot of problems with environmental hazards.
18 They don't have the facilities. They're not required.

19 CHAIRMAN BACA: Any other questions from the
20 Board?

21 MR. TRUJILLO: Well, I think I had interrupted
22 him. I think he had a couple of other points, and I'll go
23 ahead and ask him some questions as direct.

24 CHAIRMAN BACA: Identify yourself again.

25 MR. TRUJILLO: Yes. T.J. Trujillo, Counsel for

1 the Coalition.

2 CHAIRMAN BACA: You're speaking -- every time
3 that someone speaks, please identify yourself.

4 MR. TRUJILLO: Absolutely. I'll get used to that
5 here quick and make sure I do that every time. If not,
6 mostly he'll hit me.

7 Mr. Chairman, if I could finish the direct
8 examination and turn it over for any kind of questions to
9 the Board. I had interrupted our witness to be able to
10 talk about some procedural issues. Can I go ahead and
11 proceed, Mr. Chairman?

12 CHAIRMAN BACA: Please.

13 MR. TRUJILLO: Thank you.

14 Mr. Terrazas, if I understood your testimony --
15 well, one of the issues that you have concern about was
16 public health, correct?

17 MR. TERRAZAS: Correct.

18 MR. TRUJILLO: Can you give me an example of
19 where it would be problematic for a funeral home to not
20 have a preparation room at that particular site?

21 MR. TERRAZAS: Sometimes we deal with -- having
22 served as a funeral director over the years, we deal with
23 different bodies that are in different situations whether
24 they are -- some are more advanced in decomposition, some
25 react differently to chemicals because of whatever they

1 were taking as far as medications and stuff.

2 Sometimes it requires us to even -- after the
3 embalming process, even if they're embalmed -- let's just
4 say they're embalmed at another facility. They're shipped
5 in from another state or whatever, and we receive them.

6 There is additional care that needs to be done --
7 handled. It can be purging. Sometimes we have bodies
8 that purge, and if we don't have the aspirator, you don't
9 have the -- sometimes you have to close an eye. Sometimes
10 you have to -- sometimes there's dehydration and you have
11 to cosmetize (sic). You need gloves. You need to be able
12 to dispose of some of the health hazards and stuff.

13 If you get a body that purges and you don't have
14 the facility to correct that and you're having a viewing,
15 that creates problems for public health.

16 CHAIRMAN BACA: Mr. Chavez, Mr. Terrazas, I think
17 you've already repeated this several times.

18 MR. TRUJILLO: We'll move on. Mr. Chairman,
19 again, T.J. Trujillo, Counsel for the Coalition.

20 Mr. Terrazas, the reason I asked you that is
21 if -- under your example, if such a situation would occur
22 where you have a purge during a viewing and don't have the
23 proper facilities, what kind of impact would that have in
24 your professional experience for the family?

25 MR. TERRAZAS: Well, number one, it's going to

1 be -- how do you answer that to the family if you're not
2 required to have that room? You know, if that happens to
3 be and I don't have the room, I would just say, "Well, I
4 don't have that."

5 What do I do? Just get a Kleenex and throw it in
6 the trash? You know, it's a direct violation of OSHA
7 standards, the requirements. For the family emotionally,
8 it's going to be -- it could be devastating. It could
9 create probably a lawsuit. A lawsuit would probably arise
10 from that. And then depending on if they touched anything
11 and they got contaminated, I mean, it could lead to
12 whatever. You know, there's just so many diseases out
13 there. Things could be spread, for the lack of a better
14 word.

15 MR. TRUJILLO: Mr. Terrazas, I'd like to clarify
16 another issue you talked about in your testimony. You
17 indicated that there was a statutory change that happened
18 with this particular law that authorizes these
19 regulations; is that correct?

20 MR. TERRAZAS: Explain that to me again. I'm
21 sorry.

22 MR. TRUJILLO: Let me say it this way. Did the
23 underlying statute that imposed the Board and the
24 licensing just recently change?

25 MR. TERRAZAS: It just recently changed.

1 MR. TRUJILLO: And when did that recently
2 change?

3 MR. TERRAZAS: In February.

4 MR. TRUJILLO: Did you participate in the
5 process?

6 MR. TERRAZAS: Yes.

7 MR. TRUJILLO: To implement those changes?

8 MR. TERRAZAS: Yes, I did.

9 MR. TRUJILLO: Was one of the issues that you
10 discussed preparation rooms?

11 MR. TERRAZAS: Yes, we covered that extensively.

12 MR. TRUJILLO: And at that point, how many
13 funeral homes were around during your -- the best that you
14 can recall, how many funeral homes?

15 MR. TERRAZAS: I believe it was 18 or 20 funeral
16 homes around the state that were concerned about that
17 rule, or the time there was a statutory change, they were
18 trying to change it by statute.

19 MR. TRUJILLO: How did those negotiations play
20 out?

21 MR. TERRAZAS: We directly spoke with Mr. Brane.
22 And one of the -- I guess, the compromise was they wanted
23 to eliminate it. There was a bunch of issues that were
24 covered, but when we got to the preparation room, they
25 wanted to create a waiver. We ended up compromising. I

1 felt we had compromised to the reduction of the size of
2 the room rather than a complete waiver.

3 One of the -- I believe your employer was the
4 gentleman who said he needed some more space for filing
5 cabinets or office supplies or something. And he said
6 that the use of the room wasn't being used at his facility
7 because he centrally -- because he's currently doing
8 central embalming and would like to use some of the space
9 in the preparation room for filing cabinets.

10 We said, "I don't see anything wrong with that."
11 We felt that as long as you maintained the preparation
12 room, if you needed to reduce it in size, then you could
13 apply the other 50 square feet for, I guess, storage or
14 whatever you wanted.

15 MR. TRUJILLO: At that time, Mr. Terrazas, were
16 you supportive of the rule based -- I'm sorry. Were you
17 in support of the statutory changes based on the
18 compromise?

19 MR. TERRAZAS: Based on the compromise by rule
20 change, I think, you had a little discussion on your side,
21 and it was a compromise that by rule change, the size of
22 the room would be then changed, or we then compromised to
23 continue and finish the bill as we -- with all the
24 corrections, I think -- or our compromise throughout the
25 rest of the bill.

1 MR. TRUJILLO: Mr. Terrazas, is there anything
2 else that you would like to add in terms of your testimony
3 and comments today?

4 MR. TERRAZAS: The only thing I didn't cover --
5 that way, I can give someone else some time to speak -- is
6 I see there is a change from 50 miles to 90 minutes. And
7 I believe that 50 miles is already on the map. The
8 funeral homes are 50 miles apart. It's a decent
9 distance. 90 minutes, there's no real set time depending
10 on, I guess, your speed limit, construction zones. I
11 don't know.

12 An accident on the highway -- the other day I
13 went to Deming, and a truck started on fire. And so -- I
14 mean, what -- I think, in my opinion, the definite mileage
15 is a definite time that can be changed depending on -- if
16 you have windstorm between Silver City -- and I'm not
17 talking about my area, okay -- between Silver City and
18 Deming is shut down, and now, all of a sudden, I can't get
19 to my other funeral home because of the closure of the
20 highway. It happens in our area between Lordsburg and
21 Deming, Silver City and Deming, Deming and Las Cruces all
22 the time. And I think the mileage should be maintained
23 that we've had for many, many years. I think it should
24 remain.

25 MR. TRUJILLO: Thank you, Mr. Terrazas.

1 Does the Board want to question everyone as a
2 group or is there specific questions?

3 CHAIRMAN BACA: Any other questions from Board
4 members of Mr. Terrazas?

5 MR. MOON: I'm Charles Moon. I'm a member at
6 large on the Board, so I'm not a licensed FCP. So I may
7 ask stupid questions, okay?

8 MR. TRUJILLO: That's okay.

9 MR. MOON: Digging a little deeper into the
10 profession, but you said with the preparation room when
11 you take remains out of the room like to another area of
12 the funeral home, say, the chapel for viewing, this is
13 your concern, when leakage could happen and things of this
14 nature, that's when that can happen?

15 MR. TERRAZAS: Sir, leakage can happen at any
16 time. It's not something that you can prevent if it's
17 going to happen. You have no idea when it's going to
18 happen. It's something -- embalming is -- the actual
19 embalming process is just the beginning.

20 Following that, we have what is called "other
21 preparation." Other preparation can be tending to wounds,
22 tending to other leakages. An IV, for instance, an IV
23 that's leaking, a bedsore, purge, like I said, earlier.
24 Sometimes, we have -- because of the automobile accidents,
25 we have leakage from the ear. And so those things --

1 that's why it can happen at any time.

2 I mean, we -- when we place someone, we try to do
3 actually our preparation. We do our preparation, then, of
4 course; we monitor right before viewing. We then do our
5 other preparation, continue our other preparation so that
6 right before either placing them in the public's view, you
7 try to minimize that to the best of your ability. But
8 even at that, sometimes we've had, you know -- you know,
9 you have someone that has sat out in the elements for
10 hours at a time, and they've already decomposed somewhat.
11 The family still wants to view. You're trying to produce
12 that for them, and sometimes you have to tell them, "I'm
13 going to have to go in there and still work on that
14 person. If you see anything, please notify us so that we
15 can correct that."

16 And that can happen at any time, sir, and that's
17 the way I would answer that question.

18 MR. MOON: So if you take someone from the prep
19 room and take them, say, to a church for viewing within 50
20 miles, can you explain the difference between the two?

21 MR. TERRAZAS: Well, now, of course, when you go
22 to another facility -- but the church is not a funeral
23 establishment. And if you're -- let's just use that as an
24 example. I'm here at my funeral home, and I do have a
25 church that's 50 miles away. Even then, we take -- I

1 mean, especially if you have -- you kind of foresee some
2 situation, like I was telling you, an automobile accident
3 or whatever, you take yourself a little care kit, and you
4 would be working with that in another facility.

5 But generally, at another facility, we try --
6 depending on the situation, we try not to have a long
7 viewing or -- I mean, it's usually just a service, an hour
8 before the service takes place that we try to have our
9 viewings happen. But in the funeral home, it would be
10 like if I asked the hospital for a Band-Aid, and they say,
11 "Well, we don't keep any Band-Aids in the hospital." You
12 know, "I need an X-ray or whatever," "Well, we don't keep
13 our operating room in place."

14 That is our operating room, and that's how we
15 handle things. In the facility itself, it's imperative
16 that you have it. I mean, as the public, you're walking
17 into a place that you would -- I mean, I think for sure
18 they would have those facilities. Because that's what
19 you're hiring that facility to do is to care for people's
20 human remains.

21 If the room is not present, I understand we have
22 grave sites. We have things that happen outside of the
23 facility, but in your -- in your establishment -- I mean,
24 it should be mandatory. I just don't see how we would
25 deregulate something like that. It would be hard if you

1 came to me and I said, "I'm sorry, sir. I don't have the
2 room or the facilities or equipment to help that."

3 MR. MOON: All right. Thank you.

4 MR. TERRAZAS: You're welcome, sir.

5 MR. CROW: Mr. Terrazas --

6 MR. TERRAZAS: Yes, sir.

7 MR. CROW: -- Mr. Chairman, and my name is Tommy
8 Crow. I'm a member of the Board. Mr. Terrazas, on the
9 mileage part, 90 minutes by legal road is real vague. I
10 understand that -- and because in 90 minutes, I can make
11 it from Grants to Santa Fe. I could have a funeral home
12 almost anywhere in this state.

13 But instead of the minutes, would it please your
14 group if we put a mileage like 75 miles?

15 MR. TERRAZAS: I think 50 miles is efficient.

16 MR. CROW: But 50 miles was put on there back in
17 1968 based on keeping competition out. Don't worry about
18 competition. If somebody doesn't like you, the family is
19 going to sue you and put you out. That doesn't have
20 anything to do with it.

21 MR. TERRAZAS: I think the time -- to me, you
22 know, I think when you look at the mileage -- and we
23 discussed mileage when we had the statutory -- when we
24 went over that legislation, and mileage was brought up.
25 It's been 5 miles, 100 miles, 35 miles. They threw all

1 these things out. And like I said, I own a place about 50
2 miles away, and it's still -- when you have to respond,
3 it's a good little distance to travel, you know.

4 And even at that, you know, sometimes you are
5 responding outside of that, between the places, and then
6 on top of that, you're responding to another -- first
7 call, let's just say, in Columbus, and I'm in Silver City
8 here or whatever. I think 50 miles, it's been pretty
9 good. And our community, our state, I mean, the
10 population has grown. You would think that some of these
11 areas have merged enough that the mileage, 50 miles is
12 ample. I think it's worked for Mr. Baca pretty well.
13 It's worked for us real well. Some of the other members
14 of the Coalition who are here, they're happy with the 50
15 miles. It works for them. I think it's efficient, sir.

16 CHAIRMAN BACA: If I may make a comment. The
17 item that's being discussed presently because it does
18 relate to the establishment as well is admissible. But,
19 you know, the reason for the changing where the funeral
20 service practitioner must live within 90 minutes -- but
21 legal road travel was introduced because there's no other
22 provision in New Mexico that says the doctor must live
23 within 50 miles from Mimbres Memorial Hospital.

24 There's no other dentist can live in Silver City
25 and practice in Deming. And that's for the funeral

1 service practitioner to live -- it doesn't say that the
2 funeral homes can be farther -- can be closer, or set 90
3 minutes from each other. It says if the practitioner is
4 beyond -- farther than 50 miles. That's the way that was
5 placed in there because there is no other provision that
6 says you can practice within 50 miles of your
7 establishment.

8 Doctors -- we have surgeons coming in from out of
9 town to do life-threatening procedures in our hospital,
10 so that's where it came from.

11 MR. TRUJILLO: Mr. Chairman, if I may comment on
12 that due to it's my witness. Mr. Chairman, I have done a
13 search complete of all the statutes to see if such a
14 requirement of living in a particular area is -- however,
15 I will say in some professions it is practiced by contract
16 actually with the employer to require someone to live a
17 particular area -- in some instances, maybe 30 miles, some
18 instances, it may be 60. It really depends on what the
19 needs are for that particular establishment in terms of
20 responding to any kind of day-to-day operation,
21 maintenance of a facility.

22 Be it -- like a mine, if you need -- a copper
23 mine -- if you have a copper mine that needs a truck
24 driver on hand in emergency situations, you may end up
25 writing a contract. You say, "Please live within 30

1 miles" -- or actually provide outside housing due to the
2 demands of a particular job. And that employee can
3 operate or not operate or be employed or not employed by
4 that particular employer.

5 So I just threw that out. I understand
6 statutory, but contractually, too, you can do that. So it
7 is a common practice in some instances based on the needs
8 of a particular facility. And I can address that, and the
9 reason I make that comment is I will address that through
10 other witnesses about what are the needs and why such a
11 requirement would be applicable as I call some of the
12 witnesses.

13 MR. TERRAZAS: The 90-minute thing, if I might,
14 if you don't mind, would it mean that I could live 90
15 miles from the Silver City location and then still own the
16 other location in Deming?

17 CHAIRMAN BACA: Could you get to Deming within 90
18 minutes?

19 MR. TERRAZAS: No, no. The initial requirement,
20 if I live 90 minutes from a source location -- I don't
21 know -- I live in a reserve. I could live in a reserve
22 that's 90 minutes.

23 CHAIRMAN BACA: That's 100 miles.

24 MR. TERRAZAS: Well, okay. Let's just say --

25 MR. CROW: We're not talking about --

1 MR. TRUJILLO: He understands.

2 MR. TERRAZAS: Well, anyway. Then I could still
3 own another funeral home still 50 miles away from that?
4 That's what I'm getting at, yeah. So I think, in my
5 opinion, just keeping the mileage simplifies it. I mean,
6 we know that, in general, I think that's obviously new
7 because -- I mean, we all live -- in order to respond to
8 our business, we usually live pretty close to our
9 establishment, and we have to. And I just don't see the
10 90-minute change, how it -- it just might be a couple of
11 people that will benefit from that. I think everybody
12 else in the state is pretty well pleased with the 50
13 miles.

14 MR. CROW: Mr. Chairman, if I may? Tommy Crow,
15 State Board Thanato Practice.

16 Mr. Trujillo, may I ask you a question, please?

17 MR. TRUJILLO: Certainly.

18 MR. CROW: Does your profession limit you? Let's
19 say a client from Carlsbad calls and wants to use you.
20 Are you prohibited by state regulations or statutes from
21 going down there and taking care of that client?

22 MR. TRUJILLO: I would say it depends on the
23 topic that I'm dealing with. For instance, if I'm -- it
24 depends on what my licensure would be as an attorney, so
25 if the topic is Indian law and they have an issue with

1 some Native American land somewhere close, I may not be
2 able to help them. So it's more on the needs -- getting
3 back to my understanding of the establishment --

4 MR. CROW: But that wasn't my question. I didn't
5 ask about specific laws, because each lawyer practices a
6 different type of law --

7 MR. TRUJILLO: Correct.

8 MR. CROW: -- like doctors practice different
9 types of med. There's nothing in the statutes from being
10 an attorney that prevents you from practicing anywhere in
11 the entire state as long as it falls within your criteria
12 that you practice.

13 MR. TRUJILLO: Assuming I'm properly licensed, I
14 could, and I have the requisite certifications.

15 MR. CROW: Like your office is in Albuquerque,
16 correct?

17 MR. TRUJILLO: Correct.

18 MR. CROW: Do you represent Grants?

19 MR. TRUJILLO: My clients are all over the state,
20 all over the country.

21 MR. CROW: Okay. See, our profession, we're tied
22 up with a knot around our neck. We're no different than
23 any other profession. And when you say -- and to give an
24 example of what I'm talking about, Mr. Riley, Alan Riley,
25 owned seven funeral homes at one time. He had a --

1 Farmington, Santa Fe, Clovis, Carlsbad. He traveled by
2 airplane to each funeral home. But each firm had a
3 licensed practitioner there.

4 The Board and the statutes does not say you
5 cannot have, as long as you have a licensed practitioner.
6 If you're too cheap to hire another funeral director,
7 that's not our problem or the State's.

8 It's saying -- the license in charge -- you can't
9 live more than 90 minutes from each firm. The owner, you
10 can have as many funeral homes as you want to have. But I
11 mean, you can have a separate license in charge in each
12 establishment. You're not required to have just one to
13 cover all five of your establishments. So it doesn't
14 matter which way we look at it.

15 We're the only profession that is locked up with
16 a mileage. We're the only profession that you can bring
17 in your own casket. We have to accept it. I went to
18 Wal-Mart and took my own grocery bag, and they don't allow
19 that. I went to Applebees's and said, "Here's my steak.
20 Cook it."

21 You know, we're the only ones that is locked up.

22 CHAIRMAN BACA: Let's stick to the subject.

23 MR. TRUJILLO: Mr. Chairman, again, as I
24 introduce some of the other witnesses and elicit some
25 testimony, perhaps I can clarify the point a little bit in

1 addressing these questions to the witnesses and my closing
2 comments. I'll be more than happy to address them more in
3 specificity some of what I see the differences between why
4 these regulations apply versus others. So --

5 CHAIRMAN BACA: Any questions?

6 MR. BRANE: Not at this time.

7 CHAIRMAN BACA: You may proceed with the other
8 witnesses.

9 MR. TRUJILLO: Mr. Chairman, again, T.J.
10 Trujillo. I'd like to add a witness.

11 For purposes of the record, can you please state
12 your name for the record.

13 MR. FINEGAN: My name is Charles Finegan. I'm
14 the owner of Riverside Funeral Home and New Mexico
15 Mortuary Service, which is a commercial embalming
16 facility.

17 MR. TRUJILLO: And where is that facility
18 located?

19 MR. FINEGAN: My commercial embalming facility is
20 in Albuquerque, New Mexico. I also have a funeral home in
21 Albuquerque, New Mexico, and I have a funeral home in Los
22 Lunas, New Mexico.

23 MR. TRUJILLO: Have you reviewed the proposed
24 rules, in particular, Part 4 that's being proposed and at
25 issue today?

1 MR. FINEGAN: Yes, I have.

2 MR. TRUJILLO: Do you have any comments with
3 respect to Part 4?

4 MR. FINEGAN: I do not believe that we should be
5 negating the funeral homes from funeral establishments.
6 First off, my impression, we sat down and went over this
7 with all of you, and we had an agreement, a gentleman's
8 agreement. And now you all are not holding your end up.
9 And I really do not believe that the Board is the ones
10 that are bringing this issue to us. I believe it was
11 through a third party that a few of you are getting
12 paychecks from.

13 There's no way that you can sit there and tell me
14 that you guys are the ones that are pushing this through.
15 It was your idea, Mr. Baca? I do not believe that at
16 all.

17 By definition, human body fluid is a hazardous
18 material. OSHA strictly regulates us, has specific
19 guidelines on how this is to be handled, and, to me, is
20 why does the federal government require us to go through
21 such detail to make sure our customers, our workers, our
22 ourselves, are not exposed to hazardous material?

23 Now, if you remove the area of the business that
24 handles the process of this hazardous material, then by
25 rule, by basic definition, we're not following OSHA

1 standards. So there you have it, black and white.

2 Why would you take the prep room out of a funeral
3 home? It doesn't make any sense. And this is not your
4 idea.

5 MR. TRUJILLO: In your professional experience,
6 have you ever had a situation where anyone in your
7 establishments has had a situation that required a
8 preparation -- required --

9 MR. FINEGAN: I have a commercial embalming
10 establishment for 20 years. I have documented over 600
11 embalmings that I personally have done, documented --
12 probably closer to 10,000.

13 You cannot control what happens to human remains.
14 Those of you that are licensed funeral directors on the
15 board know this. Now, the people that are trying to push
16 this through are not licensed funeral directors. They're
17 cemetery people. They've got nothing to do with our
18 business. They do not have our best interests in mind as
19 far as funeral homes. Period.

20 We have to be able to control what happens to our
21 bodies in our prep rooms. Period. You can't do it if you
22 don't have a prep room.

23 If OSHA requires us to handle infectious waste
24 in -- and situations in a certain matter, why doesn't the
25 State of New Mexico do the same?

1 MR. TRUJILLO: Mr. Chairman, I have no further
2 questions for this particular witness.

3 MR. CROW: Mr. Chairman, may I make a statement,
4 please?

5 CHAIRMAN BACA: Yes.

6 MR. CROW: This is Tommy Crow, State Board of
7 Thanato Practice.

8 Mr. Finegan, when you said "the Board," let me
9 make it quite clear to you and question you. Not every
10 member of the Board knew this was even being presented at
11 legislature until after it was already typed and almost
12 ready to be voted on by then.

13 So as far as saying "the Board members," not all
14 Board members had any idea this was happening.

15 MR. FINEGAN: And I know that. I have to make a
16 general statement, Tommy.

17 MR. CROW: I understand that.

18 MR. FINEGAN: Okay.

19 MR. BRANE: Mr. Chair?

20 CHAIRMAN BACA: Do you have questions?

21 MR. BRANE: Brad Brane, Board Member.

22 Mr. Finegan, I believe you're referring to me as
23 the one who is receiving a paycheck from somebody who is
24 driving this, and that is no longer the case. Mr. Daniels
25 does not own that funeral home, so let me just make that

1 very clear.

2 There was a ruling that took place last month in
3 Pennsylvania, and it was a significant ruling. It impacts
4 what we do as a funeral home. Part of that ruling was a
5 requirement that every funeral location is not required to
6 have a fully-equipped funeral preparation room if they
7 have central facilities.

8 I think a lot of your conversations around here
9 up to this point, yours and Mr. Terrazas, have been under
10 the assumption there's no funeral preparation area. Well,
11 that's not the case. We need to keep in mind that there's
12 an initial application and a requirement to meet, and
13 after that, what happens then, it comes back to the
14 individual business owner or owners' decision and their
15 choice. If they choose to have a central facility and
16 handle the families that have entrusted that care of their
17 loved ones to them and they are doing that adequately,
18 then there's no crime, no foul.

19 If they don't, you can be sure that the owners
20 are going to have issues they're going to deal with, and
21 they would have this decision to make, do we want to
22 continue a central preparation area or do we want to go
23 back to something else.

24 The heart of this is really a restrictive
25 measure, restrictions in commerce with funeral homes, and

1 we need to consider keeping the integrity of a small
2 individual location intact and opening -- what's happening
3 in our world, and that is multiple funeral homes. You
4 have how many funeral homes, Mr. Finegan?

5 MR. FINEGAN: Two.

6 MR. BRANE: Say that again.

7 MR. FINEGAN: Two.

8 MR. BRANE: I recall at a meeting where you have
9 a location that's recently been opened in Los Lunas; is
10 that correct?

11 MR. FINEGAN: Yes.

12 MR. BRANE: Do you recall the statement that you
13 made that you have had that open for a couple of months
14 and you have not even used the preparation room?

15 MR. FINEGAN: That is correct.

16 MR. BRANE: Do you use that preparation room in
17 every case that you handle in the Los Lunas market?

18 MR. FINEGAN: No.

19 MR. BRANE: So you have central -- some degree of
20 central facility?

21 MR. FINEGAN: Yes.

22 MR. BRANE: Okay. How does that room work? Have
23 you had issues with families or with specific cases?

24 MR. FINEGAN: I have used the prep room at Los
25 Lunas not to initially embalm the body, but to maintain

1 the integrity of the body. Yes, I have.

2 MR. BRANE: What is the distance between your two
3 facilities?

4 MR. FINEGAN: 18 miles.

5 MR. BRANE: So if you did not have that one
6 operating and you had the option to bring that person back
7 to your facility and correct that, if you had no facility
8 at Los Lunas, correct -- if you needed to make some
9 corrective measure --

10 MR. FINEGAN: I would not put myself in that
11 situation.

12 MR. BRANE: You would not, as a current business
13 owner. However, some people have chosen to and
14 apparently --

15 MR. FINEGAN: It's not fair to our families.
16 It's not fair to anyone we serve.

17 MR. BRANE: But that's your judgment, sir.

18 MR. FINEGAN: No. So all this has to do with --
19 you know what? I better stop because I'm going to show my
20 ass.

21 CHAIRMAN BACA: Next witness, please.

22 MR. TRUJILLO: Let's go this way, and then we'll
23 go back to you.

24 Mr. Chairman, T.J. Trujillo, again, for purposes
25 of the record. I'm calling my next witness.

1 Go ahead and please introduce yourself for the
2 record.

3 MR. PRESTON: Grant Preston, Harris-Hanlon
4 Mortuary out of Moriarty and Mountainair, New Mexico.

5 MR. TRUJILLO: Have you reviewed Part 4 of the
6 rules that are at issue today?

7 MR. PRESTON: I have, and I do have a comment.
8 I'll summarize this real quickly. I would like to comment
9 on the 90 miles, and I would also like to address the
10 issue with the waiver of the prep room. And I'd like to
11 address the waiver of the prep room first.

12 We can see as a Coalition how different
13 businesses might choose to do things differently than
14 others, but the fact of the matter is that every time the
15 body is addressed in any matter, medical waste is
16 generated and instrumentation is required that is in our
17 prep rooms. So without those prep rooms available,
18 without that equipment, without the things that we need,
19 those things can't be done and abide by OSHA medical waste
20 requirements and things of that nature.

21 So I don't believe that you can accurately take
22 care of a body. And I have two specific instances that
23 are very recent. One, last week, where a body had passed
24 away in a hospital in Las Cruces, the family contacted a
25 funeral home in Las Cruces. The body was embalmed,

1 transported by the family to me in my secondary location
2 that does have an operating prep room. And for two days
3 we dealt with purging and skin slip, and it wasn't the
4 fault of the funeral home in Las Cruces. It was the fact
5 that the family waited three days to call the funeral home
6 in Las Cruces.

7 So their embalming was adequate, but they had to
8 deal with what they had to deal with. And so we had
9 issues that had to be dealt with. And my facilities are
10 40 miles apart, and I cannot just -- before going to a
11 rosary at seven o'clock tonight and a family viewing at
12 six o'clock, I cannot tell the family, "I'm sorry, but I
13 have to drive 40 miles north to my primary facility to
14 address this issue. I'll be back at 8:00 when your rosary
15 starts at 7:00."

16 It's not possible. So you could put your
17 families through that as a business person if you wanted
18 to, but it does not work for the public. Again, every
19 time we address the body, there is medical waste
20 generated.

21 The situation I have going on right now, a woman
22 was killed in Moriarty in an auto accident. Embalming
23 took place immediately, but because of her injuries she
24 had skin slip underneath her arm. We're in the middle of
25 a holiday week. Her burial won't take place until

1 Thursday.

2 That is something that would be addressed on a
3 daily basis, every day. The family has a viewing one day,
4 a rosary another day, and a funeral the next day. So each
5 day we're going to generate medical waste, and that has to
6 be dealt with. It requires instrumentation. It's
7 required in our prep room.

8 I'm going on to the 90 miles -- or I'm sorry --
9 50 miles or 90 minutes. I would support the idea that we
10 have either 90 miles or 90 minutes. Back in 1968, we
11 didn't have the communication that we have today. My
12 staff, licensed intern and licensed clerical staff, I'm in
13 direct contact with them 24-7. So me, having the ability
14 to drive 90 minutes or go 90 miles or whatever that may be
15 isn't what it used to be.

16 It used to -- we got a death call. At your
17 house, you were 50 miles away. You were 50 minutes away
18 from any communication. We have such communication today
19 that I don't believe the 50 miles is adequate anymore. If
20 it were changed to 90 miles or 90 minutes, I would support
21 that.

22 CHAIRMAN BACA: Questions of the --

23 MR. TRUJILLO: Do you have any further comment?

24 MR. PRESTON: No.

25 MR. TRUJILLO: Mr. Chairman, if I can ask one

1 more question, and then I'll turn him over to the Board.

2 Did you hear the testimony from the previous two
3 witnesses?

4 MR. PRESTON: Yes.

5 MR. TRUJILLO: In general, do you agree and
6 support their testimony?

7 MR. PRESTON: Yes.

8 MR. TRUJILLO: And are you a member of the
9 Coalition of Funeral Directors?

10 MR. PRESTON: Yes.

11 MR. TRUJILLO: Thank you. I have no further
12 questions.

13 CHAIRMAN BACA: Questions from the Board?

14 MR. BRANE: Mr. Chair, I have a question. I am
15 Brad Brane. I'm a member of the Board.

16 I just wanted to clarify something, Mr. Preston.
17 You are in support of the change from 50 miles to 90
18 minutes; is that correct?

19 MR. PRESTON: Yes, I am.

20 MR. BRANE: And there are others in the Coalition
21 who are, if I understood correctly from their testimony,
22 not in support of that; is that correct?

23 MR. PRESTON: Correct.

24 MR. BRANE: Okay. I just wanted to clarify that.
25 That was the only question I have, sir.

1 CHAIRMAN BACA: Any other questions?

2 Next witness.

3 MS. MISONER: Liddy Misoner, Direct Funeral
4 Services, Albuquerque.

5 MR. TRUJILLO: She doesn't need me.

6 Are you familiar with the rules that are being
7 proposed today?

8 MS. MISONER: Yes.

9 MR. TRUJILLO: Do you have any comments with
10 respect to those?

11 MS. MISONER: Well, my comment essentially is
12 that I believe as a licensed funeral service practitioner,
13 I've been in the business as long as maybe you all, but I
14 do believe we need to maintain a fully-operational prep
15 room. Whatever the size is, we can kind of negotiate
16 around that, but I do believe that every establishment
17 should maintain a facility in which to deal with human
18 remains because that is after all, you know, our given
19 job.

20 We can narrow down the size requirements however
21 you want to do that. We need to have the essential things
22 to take care of a situation should the need arise. And if
23 people do not want to have that, they do not want to have
24 preparation facility, there are other licensing options
25 that they have. They can be a direct disposer, they could

1 be a crematory, there's other things that they can look
2 into.

3 But as a funeral home, I firmly believe that the
4 preparation room is essential and should be required and
5 no waiver should be given other than just a size issue
6 that we could all come to an agreement on.

7 MR. TRUJILLO: Do you have any comment with
8 respect to mileage versus driving time issue?

9 MS. MISONER: I'm okay with the time -- to adopt
10 a time frame. The 90 minutes is fine with me. I know
11 there's people that have to travel distances. I mean, we
12 all do mortuary service work. For how long -- I drove to
13 Gallup every day. I don't even want to say that based on
14 that being on the record, but I did drive to Gallup for
15 several weeks in a row to conduct business there.

16 So I mean, it's something that's essential to our
17 industry, and if we can help people, we can adopt that.
18 I'm in agreement.

19 MR. TRUJILLO: And you heard testimony before by
20 Coalition witnesses dealing with the preparation rooms --

21 MS. MISONER: Yes.

22 MR. TRUJILLO: -- and are you in agreement with
23 their testimony?

24 MS. MISONER: Yes. I'm in agreement with their
25 testimony that we do need to maintain a fully-operational

1 prep room in every funeral home.

2 MR. TRUJILLO: I have no further question for
3 this witness.

4 CHAIRMAN BACA: Questions from the Board?
5 Thank you.

6 MS. MISONER: Thank you.

7 MR. TRUJILLO: Would you please state your name
8 for the record.

9 MR. BETHANY: Darrel Bethany with Anderson
10 Bethany Funeral Home in Roswell, New Mexico, as a co-owner
11 of that facility.

12 MR. TRUJILLO: Who is the other co-owner?

13 MR. BETHANY: His name is Kreg Keesee.

14 MR. TRUJILLO: And is your co-owner aware that
15 you're testifying for purposes of today's hearing?

16 MR. BETHANY: Yes, he is.

17 MR. TRUJILLO: And is in support of your
18 comments?

19 MR. BETHANY: Yes, he is.

20 MR. TRUJILLO: Are you familiar with Part 4 of
21 this particular rule, in particular this section dealing
22 with a preparation room?

23 MR. BETHANY: Yes, I am.

24 MR. TRUJILLO: Do you have any comments you'd
25 like to add for purposes of the record?

1 MR. BETHANY: I believe that every facility, if
2 we're going to be licensed as a funeral home, that that
3 funeral home that is licensed should have a
4 full-operational prep room. What you choose to do with
5 that prep room is your business.

6 If you license funeral homes without a prep room
7 just like we've said, you don't have a facility that you
8 can take those bodies to and you can work on them.
9 Because at times whenever you do go in there with a decomp
10 case or whatever, skin slippage or whatever, tissue, gas,
11 you may be in there several hours working on that, and
12 that's not fair to your family.

13 Our funeral home is a family funeral home, and we
14 have people that come in. And they don't want somebody
15 else to do the embalming. They want us to do the
16 embalming. They're in Roswell at our facility. And we
17 try to accommodate all of our families in what they want
18 us to do.

19 And I believe without a shadow of a doubt that
20 you're changing -- if you change the ruling on that,
21 you're changing it not for the good, doing that as a
22 Board.

23 One of the things that I would like to ask the
24 Board is that for legal issues if you do license and you
25 give a waiver to a facility -- just say that it was us,

1 and we owned multiple facilities -- and you give us that
2 waiver, and then we turn around, and OSHA comes in on us,
3 and we don't have an operational room -- we've had a
4 problem. We didn't dispose of whatever.

5 Then the State says, "Well, we're not required by
6 our state." Who are they going to sue?

7 And I believe that you all have a responsibility
8 in that as well because you're the ones that set the
9 guidelines and the rules for the funeral service people
10 here in New Mexico.

11 MR. TRUJILLO: So one of your positions is --
12 correct me if I'm wrong -- it could be a potential legal
13 conflict between your experience in dealing with OSHA
14 versus the way the rules are drafted dealing with
15 preparation rooms?

16 MR. BETHANY: Yes. In this day and time that we
17 live in, people are sue-happy as it is. And you never
18 know when you're going to get sued. You all set the rules
19 and regulations for us, then what responsibility do you
20 all have in doing it?

21 MR. BRANE: I'm sorry, sir. Your question? We
22 were discussing the matter.

23 MR. TRUJILLO: Oh. I asked the question: So in
24 his experience in terms of dealing with OSHA, is there a
25 potential legal conflict between the requirements of OSHA

1 and dealing with the way this rule is drafted in not
2 requiring a preparation room.

3 And his response, I believe, without going into
4 the full record was: Yes, in his experience dealing with
5 OSHA there could be some issues.

6 MR. CUNNIFF: Mr. Chairman, if I might? We've
7 had three witnesses assert this conflict with federal law
8 with respect to this proposed regulation. I'm wondering
9 if Mr. Bethany or another one of your witnesses can cite
10 to the particular federal statute or regulation where the
11 conflict arises.

12 MR. TRUJILLO: Mr. Chairman, what I will do is I
13 will recall one of my previous witnesses at the end of my
14 testimony to specifically address that particular issue.

15 MR. CUNNIFF: Thank you, Mr. Chairman.

16 CHAIRMAN BACA: Thank you.

17 MR. TRUJILLO: And, Mr. Chairman, for purposes of
18 the record, also again, this is going to come back to my
19 closing comments, but I intended on asking that of the
20 proponent of the rule. Where is the proponent so we can
21 discuss the procedural aspects of how I need to ask
22 whoever drafted the rule, how they went about doing such
23 and what evidence is there to support such a change?

24 But we can go through that process. We can put
25 on witnesses so they can go home and go back and service

1 their areas.

2 Is there anything else you'd like to add that's
3 not repetitive with any other testimony?

4 MR. BETHANY: On the 90 minutes, in my area, 90
5 minutes from Roswell, you can get to lots of locations.
6 And I could drive from Roswell to Carlsbad. I could drive
7 almost to Lovington. I could drive to Ruidoso, almost to
8 Alamogordo, is what I could do to have that licensed in
9 charge there.

10 So one of my questions is to the Board, in that
11 90 minutes, with -- being the FSP that's in charge, so
12 what you're saying is that you could put your FSP in a
13 central location and you could go out and open a funeral
14 home up in any of these locations, and he could be the FSP
15 over that without having a licensed personnel in that
16 place.

17 So if my location would be better for him to be
18 in Ruidoso, he doesn't have to live in Roswell at all. He
19 could live anywhere that he chose to within a 90-mile
20 radius or a 90-minute radius around there.

21 MR. TRUJILLO: So basically your testimony is
22 that the way you were reading that particular provision,
23 it's unclear to you how it's going to operate in practice?

24 MR. BETHANY: That's exactly right. And my
25 statement is: Why change something that there's nothing

1 wrong with? I mean, we've had a 50-mile radius of our
2 facilities since 1968, is what you all had said earlier.
3 And why do we have to change something that's worked for
4 all of these years to 90 minutes? Like I said, I can go
5 lots of different places.

6 MR. TRUJILLO: You are a member of the Coalition;
7 is that correct?

8 MR. BETHANY: Yes, I am.

9 MR. TRUJILLO: And you heard the testimony of the
10 previous members of the Board; is that correct?

11 MR. BETHANY: Yes, sir.

12 MR. TRUJILLO: And are you in agreement with
13 their testimony?

14 MR. BETHANY: I am.

15 MR. TRUJILLO: And in particular, you are in
16 agreement with respect to preparation rooms? I know
17 people have different issues and --

18 MR. BETHANY: Yes.

19 MR. TRUJILLO: -- on the other 50- versus 90-mile
20 issue?

21 MR. BETHANY: Right.

22 MR. TRUJILLO: Thank you. I think they may have
23 questions.

24 CHAIRMAN BACA: Questions from the Board?

25 MR. CROW: No.

1 MR. BRANE: Nothing. It was clarified.

2 CHAIRMAN BACA: Thank you.

3 MR. KIRIKOS: I'm Michael Kirikos, Kirikos Family
4 Funeral Home in Truth or Consequences.

5 I just want to state that I am in complete and
6 total agreement with all the previous witnesses concerning
7 the waiver of a preparation room. I would just like to
8 add that I think it's not in the public's best interest.

9 I think by most of the comments, we notice
10 there's very few, I think, people in favor of it. And the
11 biggest majority of all the funeral homes around the state
12 are opposed to it, and I think for very good reasons.

13 So I also want to comment about Mr. Crow
14 mentioning about licensures, and that we are the only
15 profession, but we're also the only profession that gets
16 called out at the last minute. We don't know when death
17 will occur. We have doctors in our community that come
18 from Odessa, Texas, but they're not on call. We don't
19 call them, and they have to get there.

20 They have a shift and they have a time, and the
21 same thing goes with other physicians in other things.
22 And even Mr. Trujillo here is not -- well, not unless
23 they're in real bad trouble -- has called at the last
24 minute. So I think there's some differences about our
25 license and why we have required some of these positions.

1 I think they're -- you know, they're very appropriate.

2 And I'm totally in agreement with the 50 miles.

3 I think it has worked well, you know, for us, and we don't
4 need to be changing those things.

5 MR. TRUJILLO: One question for you.

6 MR. KIRIKOS: Yes, sir.

7 MR. TRUJILLO: How long have you been in
8 practice?

9 MR. KIRIKOS: Since the early '60's. So it's a
10 long time.

11 MR. TRUJILLO: And in those five decades in your
12 experience, in those five decades, has there been any
13 significant change in those five decades to, in your
14 opinion, warrant a change to the way preparation rooms are
15 handled?

16 MR. KIRIKOS: No. I think things have gotten
17 better, our practices have gotten better, our chemicals
18 are better. Still, it's very important -- the room is
19 extremely important and, I think, totally necessary for a
20 funeral home.

21 MR. TRUJILLO: Thank you. I have no further
22 questions.

23 CHAIRMAN BACA: Questions from the Board?

24 Thank you.

25 MR. KIRIKOS: For purposes of the record, I'm

1 also a member of the Coalition.

2 MR. TRUJILLO: He does such a good job by
3 himself.

4 MR. RIVERA: Good morning, everyone. My name is
5 Matthew Rivera with Rivera Family Home in Santa Fe,
6 Espanola, and Taos. I just want to offer a little bit of
7 input in representing our company and the viewpoints
8 regarding the proposed changes to the 50-miles and
9 90-minute proposal, and also the embalming room waiver.

10 First of all, I want to state that the OSHA has
11 been brought up, the topic of the Occupational Safety and
12 Health Administration. That topic has been brought up.
13 The administration does require not only for funeral
14 service, but dental offices, nursing homes, hospitals, any
15 facility that regulates or deals and handles blood in any
16 manner, waste, which can include blood. And blood can be
17 a Band-Aid with blood on it. A razor that is used to
18 shave somebody that is disposed of has to be handled and
19 disposed of appropriately.

20 An incident involving somebody getting cut from a
21 razor that has shaved a dead human body, we have to file
22 federal reports. The disposal of diapers that are on a
23 body. Any type of handling of the body itself, the gloves
24 that the embalmer wears, and not only that, all of the
25 people under the licensed funeral director, which would be

1 an intern.

2 Many funeral homes have a lot of interns that
3 work underneath them. The interns are completely at
4 the -- operating under the guidelines set by the funeral
5 board in our state as in other states, but are mandated by
6 federal law to be trained in how to dispose of those
7 products. That can only be done in an embalming.

8 If the embalming room is eliminated, I would
9 suggest to the Board that they put in place a provision
10 that meets legal requirements to allow for these things to
11 be handled when there is no embalming room at that funeral
12 home.

13 Secondly, I would suggest and recommend that the
14 Board require that that facility place -- put in place all
15 advertising to the public that this facility is not able
16 to handle human waste, deal with any body fluids. This is
17 not a full-service funeral facility that has an embalming
18 room. There will be no preparation done there.

19 When a body is brought in and there's going to be
20 identification or viewing prior to cremation, it needs to
21 be made clear to the public in all advertising, perhaps
22 even signage in the front of the funeral home, that that
23 is not a facility that can accommodate them in that way
24 with that type of a space.

25 If you eliminate the embalming room, you have to

1 provide a provision to the public that is very clear of
2 what you're able to do out of that facility.

3 Okay. Secondly, the 50-mile-90-minute rule is
4 very interesting to me. The 50-mile radius, I heard a
5 comment from one of the gentlemen on the -- Board Member
6 Crow -- that the 50-mile radius was put in place to keep
7 out competition.

8 Does the Board have anything to substantiate that
9 that was put on there for that reason? Is there a
10 specific reason why that was made part of this to keep out
11 competition? Because if not, I would suggest to you that
12 that is just hearsay.

13 The second thing is a 50-mile radius is to allow
14 a licensed funeral director, the funeral director in
15 charge, to assist an intern if there's difficulty not only
16 in the embalming room but the family during the
17 arrangements. That allows a licensed funeral director,
18 the funeral director in charge, to have immediate access
19 to his intern -- his or her intern -- in serving the
20 family, not only with issues that come up with the body,
21 but issues that come up legally with legal issues
22 concerning funeral arrangements, cremation, shipping out
23 of state, shipping internationally. All the issues that
24 we encounter that we are liable, this allows a licensed
25 funeral director to immediately respond to the family and

1 his intern that is subordinate to him or her.

2 The interns that receive training in a funeral
3 home that are going to be licensed as an embalmer or
4 licensed as an arrangement director have to have access to
5 someone that has experience and has their licensing on the
6 wall of that establishment.

7 90 minutes is very vague to me, because 90
8 minutes can change based on roads that are being improved
9 and speed limits are changing, based on the route
10 traveled, based on how you travel. 90 minutes, to me, is
11 very vague.

12 50 miles can be measured. 90 minutes is not
13 measurable. 50 miles can be measured on any map,
14 MapQuest, anything. So I'm against the 50-mile change,
15 and I'm absolutely against the elimination of the
16 embalming room at a funeral home facility.

17 MR. TRUJILLO: Are you -- have you participated
18 with the Coalition?

19 MR. RIVERA: Yes, I am.

20 MR. TRUJILLO: And have you heard testimony by
21 those that have testified prior to you?

22 MR. RIVERA: Yes.

23 MR. TRUJILLO: And are you in agreement with
24 respect to the prep room at least on the testimony that
25 was presented?

1 MR. RIVERA: There's been different testimony for
2 different reasons. I'm only speaking on behalf of our
3 three funeral homes, cemetery, and crematory. And while
4 I'm not in disagreement, I'm not in complete agreement.
5 I'm speaking independently.

6 MR. TRUJILLO: Absolutely. All right. I have no
7 further questions.

8 CHAIRMAN BACA: Questions?

9 MR. CROW: Mr. Chairman, Tommy Crow, State
10 Board -- well, Funeral Service now.

11 Mr. Rivera, as for your comment, I work for
12 Mr. Alan Riley, who was Chairman of the State Board when
13 that was created, so I do have information on that.

14 The second thing is, does OSHA state in there
15 that a funeral home is required to have an embalming room?

16 MR. RIVERA: OSHA states that the handling of a
17 dead human body and anything resulting, fluids, any gauze,
18 anything, all that has to be disposed of in a proper
19 manner.

20 MR. CROW: But you don't need an embalming room
21 to dispose of it. You can have a bio-waste container
22 without an embalming room, correct?

23 MR. RIVERA: That's for the Board to decide. Do
24 you want to have a bio-waste container sitting in the
25 hallway of a funeral home? Go ahead.

1 MR. CROW: The hospitals do.

2 MR. RIVERA: Well, hospitals are -- you've got to
3 understand that hospitals deal with life and death. We do
4 not deal with life and death.

5 Hospitals have Flight-for-Life, they have
6 emergency rooms, they have doctors, they have nurses. We
7 are not in any way involved with the profession of what a
8 hospital does. I don't think that's a fair analogy.

9 MR. CROW: Body waste is body waste. True? It
10 doesn't matter where it comes from.

11 MR. RIVERA: In a dentist's office and in a
12 nursing home, you're right. It is.

13 MR. CROW: But as far as the embalming room, the
14 statute states that we're going to continue with an
15 embalming room. It just states that -- if you have
16 multiple locations -- like you're in Santa Fe, let's say
17 you own five locations here within a 50-mile radius.
18 There's nothing to stop you from embalming right now at
19 one location. There is no statute that stops you from
20 doing that as long as you own a business.

21 Otherwise, you wouldn't be able to use Direct
22 Services in Albuquerque to embalm. But under the
23 statutes, it doesn't state that we're doing away with it.
24 You must have an embalming room to get your license to
25 begin with. They're just trying to clarify that it's okay

1 to have a one-zone embalming, which I don't understand why
2 we're doing this because they could do it now without this
3 statute.

4 MR. RIVERA: When you say "they," who are you
5 referring to?

6 MR. CROW: Large corporations, such as French and
7 Daniels. Anyone that has more than one location, two or
8 three locations within a 50-mile radius.

9 MR. RIVERA: Yeah. And we meet that criteria and
10 we're against it.

11 CHAIRMAN BACA: I'm sorry. Any other questions
12 for --

13 MR. BRANE: Mr. Chairman, I have some questions.
14 Brad Brane, Board Member.

15 Mr. Rivera, a couple of questions I wanted to ask
16 you for clarification. You have how many locations?

17 MR. RIVERA: We have three full-service funeral
18 homes.

19 MR. BRANE: What is the distance between those?

20 MR. RIVERA: The distance between Taos and
21 Espanola is less than 50 miles, and the distance between
22 Espanola and Santa Fe slightly less than 50 miles.

23 MR. BRANE: Okay. And then between obviously
24 Taos and Santa Fe would be --

25 MR. RIVERA: It would be greater than 50 miles,

1 yes, sir.

2 MR. BRANE: Do you have occasions where you make
3 phone calls to your staff to answer questions they may
4 have for clarification and direction?

5 MR. RIVERA: Many times when -- well, let me
6 clarify that. Not many times. Let me rephrase that.
7 Occasionally an intern that is licensed by the board will
8 call, and we can handle things over the phone and come to
9 a conclusion.

10 Other times the family that is meeting with our
11 intern is not wanting to deal with a three-way
12 conversation or to have a conversation relayed through the
13 telephone. Many times, sometimes people are distraught.
14 They're not getting the answer they want or that they can
15 live with, they don't understand why they can't have a
16 viewing in the chapel without embalming for the night and
17 for the day of the funeral, and they can't understand a
18 lot of the requirements that we have to operate within.
19 And they don't rely on the credibility of someone less
20 than the owner or a licensed funeral director. They don't
21 want to hear from the secretary, whether it be a male or a
22 female, or the intern or even somebody over the phone.

23 They say, "I want to speak to the owner now. I
24 want to speak to the funeral director now." And so you
25 have to have that accessibility. And that's when that

1 person would call us and say, "You need to get over here.
2 We have an issue." That even happens with walk-in
3 families.

4 CHAIRMAN BACA: Any other questions?

5 Thank you.

6 MR. TRUJILLO: Mr. Chairman, I believe that's all
7 of the witnesses, although on the OSHA issue, I do intend
8 to call one more witness back up. In order not to waive
9 any of our legal arguments, I would like to briefly
10 address some deficiencies that we think -- and may
11 actually have some additional questions from the Board,
12 potentially the proponent of the rule, if that's what it
13 is or whoever's doing the proponent of the rule, certainly
14 in that capacity.

15 But I was going to ask you -- we've been at it
16 for an hour and a half. Is there any way we could take a
17 short break? Would that be possible, and then come back
18 in five minutes to --

19 CHAIRMAN BACA: Sure. At this time we'll break
20 until a quarter to 11:00.

21 MR. TRUJILLO: Thank you.

22 (A break was taken at from 10:45 a.m. to 10:57 a.m., and
23 the proceedings continued as follows:)

24 CHAIRMAN BACA: We'll call the meeting back to
25 order. It's three minutes to 11:00. We will continue

1 with this hearing.

2 Counsel?

3 MR. CUNNIFF: Is there any additional testimony
4 with respect to the issue?

5 MR. TRUJILLO: I think we had the one witness on
6 the OSHA issue real quick, and then we need to wrap it up,
7 plus my computer is going to die, so I've got my notes on
8 this. I've got to make it quick.

9 To clarify the OSHA issue, we'd call Ms. Liddy
10 Misoner back up, just real briefly.

11 MS. MISONER: Liddy Misoner, Direct Funeral
12 Services, Albuquerque.

13 MR. TRUJILLO: Ms. Misoner, do you have a copy of
14 Exhibit 18 before you?

15 MS. MISONER: Correct. Yes.

16 MR. TRUJILLO: And in Exhibit 18, please turn to
17 the section called "Preparation Room/Embalming Room."

18 MS. MISONER: Yes.

19 MR. TRUJILLO: Within that document within the
20 requirements is there references to OSHA?

21 MS. MISONER: Yes.

22 MR. TRUJILLO: Are you familiar with what these
23 types of references are indicating regarding the
24 requirements for the preparation room?

25 MS. MISONER: Yes.

1 MR. TRUJILLO: What are those requirements?

2 MS. MISONER: I know many on the Board are not
3 licensed funeral directors, have nothing to do really with
4 our industry and don't know what we do every day, but
5 we're regulated by OSHA. And OSHA is a regulation and
6 licensing agency for construction companies, you know,
7 hard hats, eye protection, steel-toed shoes. They
8 regulate the funeral industry through their hazard
9 communication program.

10 They regulate how we utilize embalming chemicals,
11 how we utilize blood-borne pathogens, which is people's
12 blood, bodily fluids that we tend to come in contact with.
13 They regulate how we deal with those. And as well, they
14 regulate the standards in which the attire we have to wear
15 keeps a barrier between the human elements and ourselves.
16 So they regulate us very specifically in what we have to
17 have when we prepare people and how we deal with the
18 chemicals and how we dress when we're doing that.

19 MR. TRUJILLO: Have you had a chance to review
20 any of the OSHA statutes or regulations?

21 MS. MISONER: Yes.

22 MR. TRUJILLO: And how did you acquire such
23 knowledge?

24 MS. MISONER: I used to be part of the hazard
25 training program for OSHA through the funeral home.

1 MR. TRUJILLO: Is there anything else you would
2 like to add?

3 MS. MISONER: And as well, I kind of brought this
4 back to my mind, but in dealing with formaldehyde and
5 dealing with blood-born pathogens and the attire that we
6 need to wear, obviously, we have to have a place to do
7 that, but also because we're in direct contact with those
8 elements, we're required to have a shower through OSHA and
9 an eye-wash station, which I kind of put in the back of my
10 mind. But if somebody should be exposed in a setting
11 within your funeral home where a body is purging or
12 there's elements there in the casket, OSHA does require
13 that there's a certain time and distance that you need to
14 be able to as an employee be able to cleanse their eyes or
15 shower themselves after coming in contact with certain
16 substances. So I did want to bring that to the Board's
17 attention as well.

18 MR. TRUJILLO: I have no further questions.

19 CHAIRMAN BACA: Questions from the Board?

20 Just a comment. You said "many on the Board are
21 not licensed funeral directors."

22 MS. MISONER: No. I was talking about the
23 administrative side. I know it's awful what we speak
24 about sometimes, but they don't know what we do.

25 CHAIRMAN BACA: Thank you.

1 MS. MISONER: Thank you. I appreciate it.

2 MR. TRUJILLO: That's why I didn't eat breakfast
3 this morning, Mr. Chairman.

4 MS. MISONER: Yes.

5 MR. TRUJILLO: Nothing further.

6 CHAIRMAN BACA: Questions from the Board?

7 Thank you.

8 MR. TRUJILLO: Mr. Chairman, that concludes our
9 testimony, I think, with respect to all the rules to
10 basically speak through the rest of the hearing.

11 At this time since we are up here, I'd like to
12 have a few closing comments on behalf of the clients
13 essentially to preserve our legal arguments and not waive
14 any of our legal arguments. I'll keep them very brief, so
15 as you enter into your deliberation, you have those for
16 purposes of the record. If I can proceed in that fashion,
17 it would be appreciated.

18 CHAIRMAN BACA: You may, sir.

19 MR. TRUJILLO: And Mr. Chavez may add some
20 comments here.

21 The first comment I would make, Mr. Chairman,
22 Members of the Board, is we would object to the process
23 and procedures not being otherwise in the accordance with
24 law. Under the Uniform Licensing Act under 61.132, any
25 interested person may request in writing that Board adopt,

1 amend, or repeal a regulation. It goes on to talk about
2 the rest of the rule-making requirements.

3 In this case, Mr. Chairman, there was no
4 proponent of the rule. I find it very confusing that the
5 Board could be the proponent, because if the Board was the
6 proponent, that would require a formal action by the Board
7 to take a position. So it had to be either a person,
8 individual, or entity. Otherwise, if the Board did it or
9 the Board was a proponent, you would have to essentially
10 vote to either propose rules that we're putting forth for
11 public comment. And 31 -- if you give me one second
12 here -- well, I believe it's 61-1-2920 -- I don't have the
13 cite here specifically in front of me.

14 Any person, as you look at the Uniform Licensing
15 Act, gets an opportunity to present their views and
16 comments. And that particular section also notes they get
17 a chance to question the proponents of the rules, or the
18 parties that are bringing forth the rules.

19 In this case, the Coalition was not the ones that
20 brought forth the rules. We commented on the rules that
21 were brought forward. And so typically, the way a process
22 like this would work is whoever is proposing the rules, we
23 get to ask questions to elicit what basis, as well as
24 reasoning, as well as evidence they are basing the
25 decision on to bring forth the rules.

1 In this case that did not occur. I believe I
2 asked the question initially from the Chairman that was it
3 the Board who was the proponent. I think the answer was
4 yes. And that being the case, I would argue that I would
5 get a chance to question the Board as to how you arrived
6 at such a conclusion, in particular with Part 4, the
7 issues with the prep room.

8 I would argue that I should have the ability to
9 ask you questions if you are the proponent as to why you
10 were proposing such a rule, what evidence is it based on.
11 That's typically the way it would occur. You have a
12 proponent. You know, sometimes people object to it, and
13 they get to elicit in front of an unbiased board that
14 would sit down and deliberate on the evidence that is
15 presented.

16 If it is, in fact, the Board is the one proposing
17 it, I would argue we don't have a fair and unbiased
18 tribunal in which to hear the evidence that is presented.
19 In other words, the decision was pre made as to the -- at
20 the time the rules were promulgated for public review, and
21 we are being deprived of our statutory right and weren't
22 able to question particular comments.

23 After speaking with Counsel, my intention isn't
24 to ask the Board questions. My intention is to preserve
25 that legal argument that, in other words, whoever was the

1 one that wants the rule has to get up and present that
2 testimony with evidence; otherwise, the only record we
3 have right now is -- unless others are going to testify
4 subsequent to us, the only evidence you have at this point
5 is substantial evidence against adoption of, in
6 particular, the preparation room.

7 You have different points of view that were
8 presented on the 50-mile, 90-minute driving time issue,
9 and I can cite those rules specifically for purposes of
10 the record. And I think everyone knows what we're talking
11 about, but the point is that the only evidence you have on
12 the record is evidence against the adoption of those two,
13 in particular, the prep room.

14 As the Board knows, any decision by the Board has
15 to be justified by substantial evidence. It can't be
16 arbitrary and capricious and must be otherwise in
17 accordance with law.

18 Again, summarizing the statutory requirements, by
19 not being able to question the proponent of the rule, we
20 have the meeting, and ask questions as to how such a
21 decision was rendered in terms of how the proposed rules
22 were put together, who put it together, how did they put
23 them together, and we have not had an opportunity, at
24 least to this point, unless someone else testifies down
25 the road, to ask such types of questions.

1 Give me one second. I'm trying to speed this
2 along. I'm going to let Mr. Chavez do one more, and then
3 I'll close with some final comments.

4 MR. CHAVEZ: Mr. Chairman, Members of the Board,
5 one of our final objections would be that we would object
6 if any Board member who has a financial or fiduciary
7 interest as a licensee, that they -- that this rule would
8 actually benefit whether it's their ownership or an
9 employer from voting on this rule.

10 In other words, if there's a conflict of interest
11 that exists, we would ask that that Board member recuse
12 themselves before making a decision on this rule. Once
13 again, that may affect their ownership in business or
14 their employers.

15 MR. TRUJILLO: On a final note, Mr. Chairman,
16 based on the substantial evidence that we presented, based
17 on the rule-making not otherwise being in accordance with
18 law, in our opinion, based on without evidence supporting
19 the rest of the rule-making, making it arbitrary and
20 capricious because there's been no evidence by the
21 proponents of the rule submitted, we would argue the
22 following remedies --

23 I think there's probably two appropriate remedies
24 in this case. If you are -- as a Board are inclined to
25 proceed forward, we would ask that you not adopt the

1 language 16.4. -- 16.64.4.9 A through E. That's new
2 language. We would ask that the Board omit that based on
3 the substantial evidence that was presented.

4 And the next 16.64.4.10, if you look in that
5 particular one, we would ask that you weigh the evidence
6 that has been presented by the Coalition to determine the
7 appropriate course of action with respect to 16.64.4.10
8 based on the testimony that was presented.

9 I think that's an appropriate action if you're
10 inclined to move forward as you go into your regular
11 deliberations. I think there's a second alternative that
12 I would encourage the Board to do, and it would probably
13 make it cleaner, is I would say not to proceed forward
14 with the deliberations, to continue the hearing and have
15 the proponent of the rules come to the next meeting of the
16 Board, present the evidence supporting the changes, and we
17 would reserve the right at that point to cross-examine any
18 of the proponents of the rules and ask questions
19 essentially as is set forth in the statute for the Uniform
20 Licensing Act.

21 So I think those are really the only two
22 alternatives here. Either adopt our position based on the
23 substantial evidence and weigh the evidence we presented
24 with respect to one, or two, not proceed forward. Let the
25 proponent of the rule come forward and allow us to be able

1 to question and present any additional evidence if
2 necessary based on such evidence.

3 With that being said, I don't think we have any
4 further comments. That set of comments applies to all the
5 rules, not just Part 4 that -- when I discussed the legal
6 infirmities I believe that exist. So it would be --
7 Part 1 through 12 would be the legal deficiency applicable
8 to all, even though we're discussing Part 4, so I'm just
9 trying to summarize all that.

10 With that, thank you for your time and patience.
11 If there's any questions of us, I guess now is appropriate
12 for you to ask any questions of us, if you want to.

13 CHAIRMAN BACA: Thank you. Your concerns will be
14 entered into the record.

15 MR. TRUJILLO: Thank you.

16 CHAIRMAN BACA: Are there any representations
17 from the Coalition and are there any others from the
18 Board?

19 MR. CUNNIFF: With respect to Part 4.

20 CHAIRMAN BACA: In respect to what part?

21 MR. CUNNIFF: Part 4.

22 MR. ALVIDREZ: My name is Al Alvidrez. And for
23 the record, I'm not a member of the Coalition. And what I
24 want to do is just give a quick background on why we're
25 where we're at.

1 Prior to the legislative session, we met in
2 Senator Adair's office, and Co-Counsel Mr. Chavez was
3 present. We were there. We started off the meeting
4 relative to the preparation room and eliminating that or
5 hopefully getting a waiver for it. And real early into
6 that discussion we reached an impasse. It was basically a
7 stalemate. Everybody was getting ready to walk out, and
8 that would have killed all legislation that we had.

9 I had the privilege of working with the
10 Coalition's counsel along with several gentlemen here
11 during the legislative session, and we worked with them
12 for the benefit of our industry. And I feel that the best
13 interest of the public should be served in this case.

14 Going back to our discussion as related by
15 Mr. Terrazas, there was a compromise. And a compromise
16 was reached relative to reducing the size of the
17 preparation room and not eliminating it.

18 By eliminating it, it would take away all the --
19 what was referred to as the main portion of the
20 preparation room, the drainage, the aspiration equipment,
21 and the instrumentation necessary, the chemicals, the
22 things that are necessary to maintain a facility.

23 I am a licensed funeral director, and I do speak
24 from 40 years' experience. And it was always my concern
25 that the prep room never be eliminated. And when the

1 compromise was reached to keep everybody in the room to
2 proceed with legislation that we had to work on, the
3 compromise was reached.

4 One concern that I had at that time was there was
5 a legal writer that was brought into the room in Senator
6 Adair's office we were meeting in. We went over the
7 verbiage with him as we were discussing it relative to the
8 compromise, and I didn't see it in here. I didn't see it
9 in here.

10 Again, I agree with Mr. Trujillo that the
11 verbiage that's in here relative to the preparation room
12 was not what was discussed in the room at that time. And
13 I guess I put myself in the position of proponent. I was
14 for the waiver, but not eliminating the preparation room.
15 And that's where we hope that we can reach a compromise as
16 a coalition, people that aren't members of the Coalition,
17 to maintain the sanctity of the preparation room, maintain
18 the sanctity of the funeral home, and everything that the
19 license issued requires.

20 As far as the mileage came into that play, that
21 was a compromise also. And if I remember correctly, that
22 was 50 miles also. The 90 minutes was not ever brought
23 in. When we met here, and I believe it was the end of
24 May, it said 90 minutes, and we don't know where that came
25 from because that wasn't discussed at that meeting ever.

1 And so with the remedies that counsel for the
2 Coalition introduced, one of them was not to accept the
3 verbiage as indicated. The verbiage could be changed
4 including a waiver for facilities that reduce their size
5 but maintain all the adequate required equipment in the
6 preparation room, and that was our compromise, if I'm not
7 mistaken, for that facility. And 50 miles, I don't think
8 there was any discussion that was against that. I think
9 everybody was pretty much in favor. 90 minutes for some
10 was -- I guess that was kind of nebulous, so that's
11 something we really don't need.

12 But the mileage is quantifiable as Mr. Rivera
13 said, and having said that, I would like to see a waiver
14 for funeral homes, but not the elimination of the
15 preparation room. Just to reduce the size of it so the
16 room could be utilized for the benefit of space and
17 efficiency of operating a funeral home.

18 But I would never be in agreement nor do I think
19 the proponents would be in favor of total elimination of a
20 preparation room. That's it.

21 CHAIRMAN BACA: Any questions from the Board?

22 MR. TRUJILLO: I believe under the statute, I can
23 ask a question to Mr. Alvidrez, if I may.

24 Again, T.J. Trujillo, for purposes of the
25 record.

1 First of all, Mr. Alvidrez, did you draft these
2 rules that are now at issue in today's hearing?

3 MR. ALVIDREZ: Actually, we received some samples
4 that were sent to us by a gentleman that actually attended
5 the meeting that a lot of us were in -- Mr. Valley from
6 Odessa. Texas used a similar waiver. We modified it, and
7 we actually -- during that Coalition meeting in Senator
8 Adair's office, we modified it with a compromise for
9 reducing the size. And I don't know that it was
10 established, whether it was going to be one-third or a
11 quarter-size of the preparation room, but I was involved
12 in the drafting of that.

13 MR. TRUJILLO: But for these specific rules,
14 being Part 1 all the way through Part 12, I believe, you
15 weren't the one that sat down and drafted the original
16 copy; is that correct?

17 MR. ALVIDREZ: No, sir. No, sir. That's
18 correct. Just what was submitted for the purpose of the
19 meeting that we had.

20 MR. TRUJILLO: Thank you. I have no further
21 questions.

22 CHAIRMAN BACA: Thank you.

23 MR. CROW: Mr. Chairman.

24 If I'm not mistaken, Mr. Alvidrez, the actual
25 bill Mr. Adair came up with did not even pass. The bill

1 that was actually passed was the House Bill, which would
2 have been technically different than the Senate Bill would
3 have been.

4 MR. ALVIDREZ: Yeah. It was modified, but this
5 wasn't the basis of the modification of the bill. But
6 they did pass both the House and the Senate.

7 MR. CROW: Yeah. Yeah. Because the Senate Bill
8 was never signed by the governor. The House Bill was.

9 MR. ALVIDREZ: Yes. Because it overrode the
10 other one.

11 MR. TRUJILLO: If I may ask a follow-up question
12 on that.

13 Mr. Alvidrez, recognizing there were two separate
14 bills, was there any real major substantive difference
15 between the one that actually got signed by the governor
16 and the one that was not?

17 MR. ALVIDREZ: No. It was just upgraded and
18 improved for the benefit of the public is what it was.

19 MR. TRUJILLO: I have no further questions.

20 CHAIRMAN BACA: Any other questions from the
21 Board?

22 Thank you.

23 Are there any other comments from anyone that has
24 not spoken, pros or cons with respect to Part 4?

25 Thank you.

1 We'll go on to Part 5. Would anyone wish to
2 comment on Part 5, Examinations?

3 MR. TRUJILLO: Again, Mr. Chairman, my legal
4 objections apply throughout the remainder of 5 all the way
5 through 12 for purposes of the record.

6 CHAIRMAN BACA: So noted.

7 MR. CROW: Mr. Chairman, may I ask a question?

8 CHAIRMAN BACA: Sure.

9 MR. CROW: Does this pertain just to the
10 jurisprudence?

11 CHAIRMAN BACA: On the rule. Yes, this rule.

12 Does anyone wish to comment on Part 6,
13 Education?

14 MR. TERRAZAS: Louis Terrazas, Terrazas Funeral
15 Chapels. I just have a question on the open book.

16 CHAIRMAN BACA: Part 5? Are you referring to
17 Part 6?

18 MR. TERRAZAS: I'm sorry. Part 5, sir. I'm
19 sorry. I just have a question: Why is -- now we're going
20 to -- you know, being that we had -- I don't know if I
21 need to go up there or whatever or just from the floor.

22 From our last meeting, when we were working on
23 the legislative verbiage, one of the things that the
24 Coalition and everyone, I think, in the room wanted to do
25 is to increase educational requirements and to kind of

1 clean that up.

2 And I just -- I see this as a step back letting
3 someone just have an open book. I think that should be
4 something that they should know when they come and take
5 the test. I think it's something that as a professional,
6 if you're going to be a director, you know, you meet a
7 family or whatever, you wouldn't sit there at the table,
8 "Wait a minute. Let me go get my book and see what I can
9 do on this."

10 I think it should be something that you should
11 know when you go and take the test. That's just my
12 comment.

13 CHAIRMAN BACA: Mr. Alvidrez.

14 MR. ALVIDREZ: Al Alvidrez. I think the
15 reference that's being made to the jurisprudence exam
16 being online; is that correct?

17 MR. TERRAZAS: I'm just reading here that it's an
18 open book exam.

19 CHAIRMAN BACA: I think that's the Board
20 officer.

21 MR. TERRAZAS: Am I understanding that correct?
22 They can come and, I guess, take the test and bring
23 their --

24 CHAIRMAN BACA: Online.

25 MS. PEREA: Yes, open book.

1 MR. TERRAZAS: There's nobody monitoring them.

2 CHAIRMAN BACA: Right.

3 MR. TERRAZAS: Yeah. I think we should maintain
4 what we have. I think we should maintain -- the things
5 that are important is for us to -- and I think this was
6 brought up also -- that we should come as an individual,
7 when we're requesting a license of that caliber, to come
8 and let the Board see us face to face, and sit down in the
9 presence of the staff and they monitor that no one else is
10 taking our test. I think that's pretty -- I mean, I just
11 took the test where -- the insurance exam -- and there's
12 no way we could have had an open book much less
13 unsupervised.

14 And so I just felt that we should go back to what
15 we have always done as an industry.

16 CHAIRMAN BACA: Any other comments?

17 MS. LOPEZ: The jurisprudence exam is currently
18 in our rules and regulations. The reason the Board office
19 opted to go open book or online is for purposes that
20 you -- we encourage you to read the rules. We encourage
21 you to know the regulations before you take this exam.
22 We're not trying to hide things or prevent you from
23 passing it with 100 percent.

24 I can tell you I am a licensing specialist. I
25 grade the exams, and in the last six weeks, I've had only

1 one person pass it with 100 percent, open book.

2 MR. TERRAZAS: I guess my question was so they
3 could un monitored just take that? I mean, I know that
4 they pass it even though they get a 75 percent or better,
5 correct?

6 MS. LOPEZ: Correct.

7 MR. TERRAZAS: And that's my point. Because I
8 mean, I can sit in an office -- and I know the rules and
9 regulations. I can sit there and tell a newly inducted
10 funeral director that wants to pass this test, "Go ahead
11 and sit there. I can tell you the answers," or --

12 MS. LOPEZ: I guess the Board office is taking
13 your word or each licensee's word that they're taking it
14 on their own.

15 MR. TERRAZAS: I'm sure. Yeah. But that's why I
16 said I think it shows our commitment to get licensure.
17 That never would happen in any other industry, in the
18 construction industry or other industries. You never take
19 an open book test like that. You never take it online.
20 It's always taken in front of or under a monitored
21 situation.

22 CHAIRMAN BACA: Any other comments from the
23 Board?

24 MR. CROW: Mr. Chairman, Tommy Crow, from the
25 State Board.

1 Mr. Chairman, my question is -- is -- the
2 jurisprudence exam, it's being given to funeral service
3 practitioners, the direct disposers, and to the interns,
4 correct?

5 MR. BRANE: (Nods.)

6 MR. CROW: Because the online exam is not on the
7 intern section.

8 MS. LOPEZ: It is currently not being given to
9 interns.

10 MR. CROW: It should be given when they step up
11 from direct to general.

12 CHAIRMAN BACA: Did you get your answer?

13 MR. CROW: Not yet.

14 CHAIRMAN BACA: Do you have a response to his
15 question?

16 MS. LOPEZ: As of right now, it is not given to
17 interns at all.

18 MR. CROW: Because we had voted earlier on that
19 that it should be.

20 CHAIRMAN BACA: Any other discussion on this?

21 On to -- would anyone wish to comment on Part 6,
22 Continuing Education?

23 MR. CROW: Mr. Chairman, I would like to make a
24 comment on Part 6.

25 CHAIRMAN BACA: Okay.

1 Anything from the floor? Would anyone wish to
2 comment on Part 7, License Renewal?

3 (No response.)

4 CHAIRMAN BACA: Would anyone wish to comment on
5 Part 8, Funeral Service Intern Practices?

6 (No response.)

7 CHAIRMAN BACA: Would anyone wish to comment on
8 Part 9, Direct Disposition Practices?

9 (No response.)

10 CHAIRMAN BACA: Would anyone like to comment on
11 Part 10, Cremation Practices?

12 (No response.)

13 CHAIRMAN BACA: Would anyone wish to comment on
14 Part 11, Complaints?

15 (No response.)

16 CHAIRMAN BACA: Would anyone wish to comment on
17 Part 12, Parental Responsibility Act Compliance?

18 (No response.)

19 CHAIRMAN BACA: Those are the 12 proposed
20 questions.

21 Has everyone present signed the attendance
22 sheet?

23 At this time the attendance sheet will be placed
24 in as an exhibit and entered into the record. I ask
25 admission of the attendance sheet as Exhibit 19.

1 I make a motion that Exhibit 19 be entered into
2 the record.

3 MR. CROW: I second.

4 CHAIRMAN BACA: All in favor?

5 All say aye.

6 CHAIRMAN BACA: Do the Board members have any
7 more questions?

8 Exhibit 19 is hereby admitted into the record.

9 The comments submitted and discussion heard
10 during this rule hearing will be considered and discussed
11 by the Board during our open meeting following this rule
12 hearing.

13 The Board will vote on the proposed rules during
14 the meeting. Members of the audience are invited to
15 stay. Any rules adopted by the Board will be filed at
16 State Records and Archives in accordance with the State
17 Rules Act and New Mexico Register publication deadlines.
18 The adopted rules will become effective 30 days after the
19 filing date.

20 Any rules not adopted may be postponed for future
21 discussion with a definite time in the future or may be
22 postponed indefinitely.

23 I would like to thank all the Board members and
24 everyone present for your participation and attendance at
25 the rule hearing. The regular meeting of the Board will

1 begin immediately following the rule hearing.

2 Let the record show that this rule hearing was
3 adjourned at 11:30 a.m. Thank you.

4 (The proceedings concluded at 11:30 a.m.)

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I, MICHELE NELSON, New Mexico Provisional
Reporter, working under the direction and direct
supervision of Debra L. Williams, New Mexico CCR License
Number 92, hereby certify that I reported the attached
proceedings; that pages 1-94, inclusive, are a true and
correct transcript of my stenographic notes. On the date
I reported these proceedings, I was the holder of
Provisional License Number #P-401.

Dated at Albuquerque, New Mexico, this 12th day
of July, 2012.

Michele Nelson
Court Reporter #P-401
License Expires: 03/01/2013

Debra L. Williams RPR, CCR
Certified Court Reporter #92
License Expires: 12/31/12