

January 2026: Changes and additions highlighted in blue

State:	New Mexico
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Inquiry 1: How long can I keep the body at home after death and under what conditions?

N.M. Stat. Ann. § 61-32-20

A. All dead human bodies not disposed of within twenty-four hours after death or release or receipt by the establishment or crematory shall be embalmed in accordance with the Funeral Services Act [Chapter 61, Article 32 NMSA 1978] or stored under refrigeration as determined by board rule, unless otherwise required by regulation of the office of the state medical investigator or the secretary of health or by orders of an authorized official of the office of the state medical investigator, a court of competent jurisdiction or other authorized official.

F. Except as provided in Subsection A of this section, embalming is not required.

Inquiry 2: Does my state require the body to be embalmed? Refrigerated?

N.M. Stat. Ann. § 61-32-20

A. All dead human bodies not disposed of within twenty-four hours after death or release or receipt by the establishment or crematory shall be embalmed in accordance with the Funeral Services Act [Chapter 61, Article 32 NMSA 1978] or stored under refrigeration as determined by board rule, unless otherwise required by regulation of the office of the state medical investigator or the secretary of health or by orders of an authorized official of the office of the state medical investigator, a court of competent jurisdiction or other authorized official.

F. Except as provided in Subsection A of this section, embalming is not required.

Inquiry 3: What methods of disposition are legal in my state?

New Mexico law mentions burial, cremation, entombment, burial at sea, delivery to a medical school, or removal from the state.

Inquiry 4: Are there any circumstances under which I would be required to wait before final disposition?

N.M. Stat. Ann. § 24-11-7

If the deceased is unidentified, the state, district or deputy medical investigator may order the body fingerprinted and photographed. When the state, district or deputy medical investigator suspects a death was caused by a criminal act or omission or the cause of death is obscure, he shall order an autopsy performed by a qualified pathologist certified by the state board of medical examiners who shall record every fact found in the examination tending to show the identity and condition of the body and the time, manner and cause of death. The pathologist shall sign the report under oath and deliver it to the state, district or deputy medical investigator within a reasonable time. The state, district or deputy medical investigator may take the testimony of the pathologist and any other persons and this testimony, combined with the written report of the pathologist, constitutes an inquest.

N.M. Admin. Code 7.3.2.10

(1) Responsibility for Reporting: Anyone who becomes aware of any death falling into the category enumerated here under "Reportable Deaths" must report it immediately to either law enforcement officers or to a representative of the office of the medical investigator. It will be the responsibility of that agency to notify the other of the report. The designated representative of the OMI shall then respond to that scene of death without delay, view and take legal custody of the body. See Section D [now 7.3.2.11 NMAC] for responsibilities of representatives of the OMI.

(2) Reportable deaths: Those deaths to be reported to the office of the medical investigator include all deaths occurring in New Mexico as outlined below regardless of where or when the initial injuring event occurred.

(a) any death that occurs suddenly and unexpectedly, that is, when the person has not been under medical care for significant heart, lung or other disease;

(b) any death suspected to be due to violence, that is, suicidal, accidental or homicidal injury, regardless of when or where the injury occurred;

(c) any death suspected to be due to alcohol or intoxication the result of exposure to toxic agents;

(d) any deaths of residents housed in county or state institutions, regardless of where death occurs. This refers to any ward or individual placed in such a facility by legal authorization;

(e) any deaths of persons in the custody of law enforcement officers;

(f) any deaths in nursing homes or other private institutions without recent medical attendance;

(g) any deaths that occur unexpectedly during, in association with, or as a result of diagnostic, therapeutic, surgical, or anesthetic procedures;

(h) deaths alleged to have been caused by an act of malpractice;

(i) deaths suspected to be involved with the decedent's occupation;

(j) deaths unattended by a physician;

(k) any death due to neglect;

(l) any still birth of 20 or more weeks' gestation unattended by a physician;

(m) any death of an infant or child where the medical history has not established some pre-existing medical condition;

(n) deaths which are possibly directly or indirectly attributable to environmental exposure not otherwise specified;

(o) any death suspected to be due to infectious or contagious disease wherein the diagnosis and extent of disease at the time are undetermined;

(p) any death occurring under suspicious circumstances;

(q) any death in which there is doubt as to whether or not it is a medical investigator's case should be reported;

(r) a list of reportable deaths will be provided to all state agencies, hospitals and other public and private facilities that require the services of the OMI.

Inquiry 5: What do I need to do to get a death certificate?

N.M. Stat. Ann. § 24-14-20

A. A death certificate for each death that occurs in this state shall be filed within five days after the death and prior to final disposition. ...

B. The funeral service practitioner or person acting as a funeral service practitioner who first assumes custody of a dead body shall:

(1) file the death certificate;

(2) obtain the personal data from the next of kin or the best qualified person or source available; and

(3) obtain the medical certification of cause of death.

C. The medical certification shall be completed and signed within forty-eight hours after death by the physician or

nurse practitioner in charge of the patient's care for the illness or condition that resulted in death, except when inquiry is required by law. Except as provided in Subsection D of this section, in the absence of the physician or nurse practitioner, or with the physician's or the nurse practitioner's approval, the medical certification may be completed and signed by the physician's associate physician or the nurse practitioner's associate nurse practitioner, the chief medical officer of the institution in which death occurred or the physician who performed an autopsy on the decedent; provided that the individual has access to the medical history of the case and views the deceased at or after death and that death is due to natural causes.

D. Unless there is reasonable cause to believe that the death is not due to natural causes, a registered nurse employed by a nursing home or a hospice agency may pronounce the death of a resident of the nursing home and a registered nurse employed by a hospital may pronounce the death of a patient of the hospital. The nurse shall have access to the medical history of the case and view the deceased at or after death, and the individual who completes the medical certification shall not be required to view the deceased at or after death. The death shall be pronounced pursuant to procedures or facility protocols prescribed by the hospital for patients or by the physician who is the medical director of the nursing home for residents. The procedures or facility protocols shall ensure that the medical certification of death is completed in accordance with the provisions of Subsection C of this section.

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F. When death occurs without medical attendance as set forth in Subsection C or D of this section or when death occurs more than ten days after the decedent was last treated by a physician, the case shall be referred to the state medical investigator for investigation to determine and certify the cause of death.

N.M. Admin. Code 7.2.2.16

A. Disposition of body. Before final disposition of a dead body or a fetus, the funeral service practitioner or person acting as such shall.

(1) Obtain assurance from the certifier that death is from natural causes and that the certifier will assume responsibility for certifying the cause of death or fetal death.

(2) For any case which comes under the jurisdiction of the office of the medical investigator, notify the office of the medical investigator and obtain authorization for removal and final disposition of a dead body or fetus.

B. Disposition of a dead body not under the supervision of a licensed New Mexico funeral service practitioner, direct disposer. When a death occurs in a hospital or other institution, and the disposition is not under the supervision of a licensed New Mexico funeral service practitioner, or direct disposer, the person in charge of such an institution or his or her designated representative shall:

(1) initiate the certificate of death or burial as follows:

(a) place the full name of the decedent and the date of death on the certificate of death registration form;

(b) obtain the information from the person to whom the body is being released and complete on the disposition section of the form the method and place of disposition; and

(c) obtain the medical certification of the cause of death from the certifier and the certifier's signature;

(2) obtain and verify through identification the full name and address of the person to whom the dead body is being released for disposition, and the place of disposition; and

(3) advise the person taking charge of the dead body of the statutory requirements to file the certificate of death registration form within 5 days, and prior to final disposition;

- (4) send a photocopy of the partially completed certificate of death along with the name and address of the person who is not a funeral service practitioner, but who is acting as such, to the bureau of vital records and health statistics within five days;
- (5) the original, partially completed copy of the registration form shall be completed by the person who is not a funeral service practitioner, but who is acting as such, to file within five days with the bureau of vital records and health statistics.

Inquiry 6: What do I need to do to get a burial-transit permit? Is there a wait period before I can receive a burial-transit permit?

N.M. Stat. Ann. § 24-14-23

- A. For deaths or spontaneous fetal deaths which have occurred in this state, no burial-transit permit shall be required for final disposition of the remains if the disposition occurs in this state and is performed by a funeral service practitioner or direct disposer.
- B. A burial-transit permit shall be issued by the state registrar or a local registrar for those bodies which are to be transported out of the state for final disposition or when final disposition is being made by a person other than a funeral service practitioner or direct disposer.
- C. A burial-transit permit issued under the law of another state or country which accompanies a **dead body** or fetus brought into this state shall be authority for final disposition of the body or fetus in this state.
- D. A permit for disinterment and reinterment shall be required prior to disinterment of a **dead body** or fetus except as authorized by regulation or otherwise provided by law. The permit shall be issued by the state registrar or state medical investigator to a licensed funeral service practitioner or direct disposer.
- E. A permit for cremation of a body shall be required prior to the cremation. The permit shall be issued by the state medical investigator to a licensed funeral service practitioner, direct disposer or any other person who makes the arrangements for final disposition.

Inquiry 7: Personal Preference Statute

N.M. Stat. Ann. § 24-12A-1

- A. An adult may authorize the adult's own cremation and the lawful disposition of the cremated remains by:
- (1) stating the desire to be cremated in a written statement that is signed by the adult and notarized or witnessed by two persons; or
 - (2) including an express statement in the will indicating that the testator desired that the remains be cremated upon death.
- B. A personal representative acting pursuant to a will or the provisions of Chapter 45, Article 3 NMSA 1978 or a funeral service establishment, a direct disposition establishment or a crematory shall comply with a statement made in conformance with the provisions of Subsection A of this section. The statement is authorization to the personal representative, funeral establishment, direct disposition establishment or crematory that the remains

of the decedent are to be cremated. Statements dated prior to April 5, 1993 are to be given effect if they meet the requirements of Subsection A of this section.

C. A personal representative, funeral service establishment, direct disposition establishment or crematory acting in reliance upon a document executed pursuant to the provisions of this section, who has no actual notice of revocation or contrary indication, is presumed to be acting in good faith.

D. A funeral service establishment, direct disposition establishment, crematory or employee of a funeral establishment, direct disposition establishment or crematory or other person that relies in good faith on a statement written pursuant to this section shall not be subject to liability for cremating the remains in accordance with the express instructions of a decedent. The written document is a complete defense to a cause of action by any person against any other person acting in accordance with the instructions of the decedent.

Inquiry 8: Designated Agent Statute

No statutory language, although N.M. STAT. ANN. § 24-12A-2(A) suggests that a decedent may leave “written instructions” appointing agent.

Inquiry 9: Right of Sepulcher Statute

N.M. Stat. Ann. § 24-12A-2

A. Except as provided in Subsection B of this section, if a decedent has left no written instructions regarding the disposition of the decedent's remains, the following persons are legal next of kin, in the order listed, and shall determine the means of disposition, not to be limited to cremation, of the remains of the decedent:

(1) the surviving spouse;

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

(3) the surviving parents of the decedent;

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

(5) the adult person of the next degree of kinship in the order named by New Mexico law to inherit the estate of the decedent; or

(6) an adult who has exhibited special care and concern for the decedent and is aware of the decedent's views and desires regarding the disposition of the decedent's body and who is willing and able to make a decision about the disposition of the decedent's body.

B. If a decedent left no written instructions regarding the disposition of the decedent's remains, died while serving in any branch of the United States armed forces, the United States reserve forces or the national guard and completed a United States department of defense record of emergency data form or its successor form, the person authorized by the decedent to determine the means of disposition on a United States department of defense record of emergency data form shall determine the means of disposition, not to be limited to cremation.

C. The state, county, municipality or other person having charge or control of the body of a decedent shall notify or attempt to notify the legal next of kin.