

NOTICE

The West Virginia Board of Embalmers and Funeral Directors proposes to promulgate certain amendments to its existing administrative rules. Such proposed amendments have been filed with the Secretary of State on July 3, 1984.

In compliance with W. Va. Code § 29A-3-5, notice is hereby given of a deadline for receipt of public comment on such proposed amendments. Public comment shall be limited to written material and must be submitted by 5:00 p.m., August 17, 1984, to the following address:

108 Holland Avenue (WO)  
Morgantown, West Virginia 26505

FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE 7/3/84  
Administrative Law Division

FISCAL NOTE FOR PROPOSED RULES

Rule No. 2.08, 6.01, 6.02, 6.03, 7.03, 7.04 Subject Surviving Spouse or Estate License; General Price and Information List; Telephone Price Disclosure; Statement of Funeral Goods and Services; Advertising; Funeral Home Establishment Business Name  
 Type of Rule: Legislative Interpretive Procedural  
 Agency Board of Embalmers & Funeral Directors Address 108 Holland Avenue (WO) Morgantown, West Virginia 26505

Authorized Representative Vincent F. Mancinelli Phone 292-9494

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	\$0	\$0	\$0	\$0	\$0
Current Expense	\$0	\$0	\$0	\$0	\$0
Repairs and Alterations	\$0	\$0	\$0	\$0	\$0
Equipment	\$0	\$0	\$0	\$0	\$0
Others	\$0	\$0	\$0	\$0	\$0

2. Explanation of above estimates.  
 No estimated cost increase or decrease

3. Date June 28, 1984 Agency Board of Embalmers & Funeral Directors

Signature of Agency Head  
Thomas C. Sovine  
 Thomas C. Sovine, President

Signature of Authorized Representative  
Vincent F. Mancinelli  
 Vincent F. Mancinelli, Executive Secretary

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**A. JAMES MANCHIN**  
 SECRETARY OF STATE  
 THIS DATE 7/3/84  
 Administrative Law Division

**West Virginia Board of Embalmers and Funeral Directors**



Thomas C. Sovine  
Charles F. Greco  
Joseph P. Christian, Jr.

OFFICE  
Vincent F. Mancinelli  
Executive Secretary  
108 Holland Avenue (WO)  
Morgantown, West Virginia 26505

RECEIVED  
JUL 2 1984

ATTY. GEN. OFFICE  
Charles T. Hoke  
Okey McCraw, Jr.  
John W. Chapman, Jr.  
Mary Bess Mitchell

June 28, 1984

A. James Manchin  
Secretary of State  
Capitol Building  
Charleston, WV 25305

Dear Secretary Manchin:

Please find enclosed proposed rule changes and amendments relating to price disclosure, telephone price disclosures, advertising, funeral home establishment business name and surviving spouse or estate license.

Please cause them to be filed. Thank you for your prompt attention.

Sincerely,

A handwritten signature in cursive script that reads "Vincent F. Mancinelli".

Vincent F. Mancinelli  
Executive Secretary

Enc.

FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE 7/3/84  
Administrative Law Division

(New Rule)

2.08. Surviving Spouse or Estate License--The surviving spouse or estate of a deceased licensee may make application for a restricted funeral establishment license. An application must be made within 30 days of the death of a licensee and must include a certified copy of the marriage certificate or an affidavit by the executor of the estate indicating the heir's desire to continue the operation of the funeral establishment. Such restricted funeral establishment license shall be limited to the location or locations of funeral homes maintained by the deceased licensee. However, the Board may approve a new or additional establishment location based upon necessity. Such restricted funeral establishment license shall be limited to three years in duration. Holders of restricted funeral establishment licenses may be required to appear before the Board each year. The annual renewal fee for a restricted funeral establishment license shall be the same as would be required by the deceased licensee.

FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE 7/3/84  
Administrative Law Division

(New Rule)

THIS DATE

4/3/84

Administrative Law Division

6.01 General Price and Information List--Upon the

beginning of any in-person discussions with consumers concerning the purchase of funeral goods or services a licensee, his employees or agents must provide such consumers with a typewritten or printed list containing the following information:

(a) The name, address, and telephone number of the licensed facility;

(b) A caption describing the list as a "general price and information list";

(c) The effective date for the price list;

(d) The retail prices and other information specified for the following items if such items are offered for sale:

(1) Forwarding of remains to another funeral home together with a list of the services provided for any quoted price;

(2) Receiving remains from another funeral home together with a list of the services provided for any quoted price;

(3) Cremation without formal viewing, visitation or ceremony with the body present with a separate price for each container offered for sale and with a description of the services provided for each price quoted.

(4) Cremation without formal viewing, visitation or ceremony with the body present where the consumer provides the container with a description of the services provided with the price quoted;

(5) Burial without formal viewing, visitation, or ceremony with the body present where the consumer provides the casket with a description of the services provided with the price quoted;

(6) Burial without formal viewing, visitation, or ceremony with the body present with a separate price for each container or casket offered for sale and with a description of the services provided with each of the prices quoted.

(e) Transfer of remains to the funeral establishment;

(f) Embalming;

(g) Other preparation of remains;

(h) Use of facilities for viewing;

(i) Use of facilities for funeral ceremony;

(j) Other use of facilities together with a list of facilities provided for any quoted price;

(k) Hearse;

(l) Limousine;

(m) Other automotive equipment together with a description of the automotive equipment provided for any quoted price;

(n) Acknowledgement cards;

(o) Prices of each individual casket offered for sale;

(p) Prices for each outer burial container offered for sale;

(q) The price for the services of funeral director and staff together with a list of the principal services provided with any quoted price, and if the charge cannot be declined by the consumer, the statement: "This fee for our services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for cremations or burials without viewing, visitation, or ceremony with the body present, and forward or receiving remains.)"

(r) The statement: "The goods and services shown above are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean that you must buy any items you did not select, we will explain the reason in writing on your bill."

(s) The statement: "This list does not include prices for certain items that you may ask us to buy for you, such as cemetery or crematory services, flowers and newspaper notices. The prices for those items will be shown on your bill, [and if applicable], we charge you for our services in buying such items."

(t) The statement: "If you selected a funeral which requires embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why on your bill."

(New Rule)

6.02 Telephone Price Disclosures--A licensee, his employees or agents must: (a) tell persons who call the licensee's place of business and ask about the terms, conditions, or prices at which funeral goods or funeral services are offered that price information is available over the telephone; (b) tell persons who ask by telephone about the licensee's offerings or prices any accurate information from the General Price and Information List provided for in Section 6.01 of these rules which reasonably answers the questions and which is readily available.

6.03. Statement of Funeral Goods and Services--A licensee, his employees or agents must give a written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information: (a) the funeral goods and funeral services selected by that person and the prices to be paid for each of them; (b) specifically itemized cash advance items, including but not limited to cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians, singers, nurses, obituary notices, gratuities and death certificates. These prices must be given to the extent then known or reasonably ascertainable. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of actual charges shall be provided before the final bill is paid; and (c) the total cost of the goods and services.

(Amended Rule)

7.03. All advertising is hereby declared to be unethical, except only as hereinafter approved, and such persons referred to above are prohibited from the use of any advertising except only as hereinafter approved.

(a) If the words "free," "without charge," or other similar connotations have the effect of misleading the public, then their use will be considered false and misleading by the Board.

(b) No licensee or apprentice or any other person or persons or business organization, associated or in any way connected with a funeral establishment shall solicit business or shall offer any inducement, pecuniary or otherwise for employing solicitors, agents, canvassers or other for the purpose of securing or attempting to secure business; such person shall not issue any gift certificates or discount certificates to a sick or dying person designed to place the recipient in a position of obligation or indebtedness and shall not transfer or offer to transfer any property or service as payment of, or in token for, business secured, influenced or otherwise provided or in promise thereof. Such persons shall not call upon, telephone, write or cause, directly or indirectly, such advertising literature to be sent to the sick or dying person as would tend to be deemed non-general, selective or soliciting advertisements. ~~No prohibition on discounts, bribes or kickbacks directly or indirectly are permitted.~~ No bribes or kickbacks, directly or indirectly, are permitted by the Board.

(c) All advertising copy, such as newspaper, radio, television, billboards, church bulletins, school publications, trade journals and other similar periodic publications have no limit to size providing the sponsor of

such advertising is not in any way false, misleading, untrue or deceptive. The contents of such advertising must include the name of the funeral establishment, its address and telephone number and the name of the licensed funeral director in charge. It may also include a description of the service facilities of the advertiser as well as general information pertaining to his business. It may also include the total cost of the minimum adult services. In all advertisements relating to the minimum adult services, the following rules must be observed and conformed to, in their entirety:

~~(1) -- No picture or pictures of any casket or vault will be permitted in any manner whatsoever.~~

(1) ~~(2)~~ Any advertised casket price will be so construed to mean the cost of such casket and all necessary items as to unit pricing for a completed funeral service. Any firm itemizing must include the casket and each and every item necessary to constitute a complete burial.

(2) ~~(3)~~ The West Virginia Board of Embalmers and Funeral Directors do not consider the cemetery costs, opening grave costs, vault costs or excess mileage in addition to the above stated as necessary to constituting a complete burial.

(3) ~~(4)~~ Any funeral director so advertising any merchandise used in connection with his business shall carry in his stock all merchandise so advertised for at least 120 days after advertisement publication, and must carry sufficient merchandise stock to so service any and all demands for such items, with no increase in price, for such stated period of ~~120~~ 30 days.

(4) ~~(5)~~ The terms advertise and advertising as used in this rule shall include the use of radio, television, billboards, calendars, and novelty advertising, or any other advertising method or medium.

(New Rule)

7.04. Funeral Home Establishment Business Name--All funeral home establishments shall do business in the name of the holder of a West Virginia funeral director's license who manages such funeral home establishment and who owns at least 25 percent of such funeral home establishment.