

West Virginia Board of Embalmers and Funeral Directors



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RECEIVED

OCT 08 1985

NOTICE OF AGENCY APPROVAL

ATTY GEN. OFFICE

LEGISLATIVE RULE: Regulations governing the Board of Embalmers and Funeral Directors.

The attached legislative rule constitutes the official rule approved by the Board of Embalmers and Funeral Directors on 28 day of September, 1985, and filed pursuant to law with the West Virginia Secretary of State and the Legislative Rule-Making Review Committee.

Vincent F. Mancinelli

Executive Secretary

proposed

FILED
1985 OCT 18 PM 3:22
SECRETARY OF STATE

FISCAL NOTE FOR PROPOSED RULES

FILED

1935 OCT 16 PM 3:32

Rule Title: Rules governing the Board of Embalmers and Funeral Directors

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Type of Rule: Legislative Interpretive Procedural

Agency Board of Embalmers and Funeral Directors Address 108 Holland Avenue (WO) Morgantown, W. Va. 26505

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
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
Other	0	0	0	0	0

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

3. Objectives of these rules:

Implement numerous changes required by state and federal law on disclosure and competition.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

Enable consumers to make more enlightened choices
and permit more competition among vendors.

C. Economic Impact on Citizens/Public at Large.

See above.

Date

Sept 28, 1985

Signature of Agency Head or Authorized Representative

Vincent F. Mammilli

FILED

1985 OCT 16 PM 3:32

SECRETARY OF STATE

WEST VIRGINIA LEGISLATIVE RULE
WEST VIRGINIA BOARD OF
EMBALMERS AND FUNERAL DIRECTORS

CHAPTER 30-6

SERIES I

Title: Regulations governing the West Virginia Board
of Embalmers and Funeral Directors

FILED

1985 OCT 16 PM 3:32

6.01 General Price and Information List--Upon the beginning of any in-person discussions with persons concerning the purchase of funeral goods or services or upon the request of any person, a licensee, his employees or agents must provide such persons with a typewritten or printed list (for their retention) 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 (including the price for either an unfinished wooden box or alternative container) 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 alternative 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 automatic equipment provided for any quoted price;

(n) Acknowledgement cards;

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

(p) Prices and descriptions 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 the statement of goods and services."

(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."

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Leg. Rule, 30-6
Series I, Sec. 6.01

(t) The statement (in immediate conjunction with the information indicated in Section 6.01(f) of these rules: "Except in certain special cases, embalming is not required by law. 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 the statement of goods and services."

(u) The statement (in immediate conjunction with the information indicated in Section 6.01(d)(3) of these rules): "If you want to arrange a direct cremation you can use an unfinished wood box or an alternative container. Alternative containers can be made of materials like heavy cardboard or composition materials (with or without an outside covering), or pouches of canvas."

(v) The statement: "In West Virginia state law does not require you to buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container so that the grave will not sink in. Either a burial vault or a grave liner will satisfy these requirements."

[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 or from any other source which reasonably answers the questions and which is readily available.

[New rule]

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; (c) citation to legal or other requirements mentioned in Section 6.01(r) of these rules; (d) 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 direct cremation or immediate burial. If we charged for embalming we will explain why below."; and
(e) the total cost of the goods and services.

[New rule]

6.04. Retention of Documents--True and accurate copies of the price lists specified in Section 6.01 must be retained for a period of one year after the date of their last distribution to customers. True and accurate copies of statements of goods and services specified in Section 6.03 must be retained for a period of one year after the date of their delivery to customers.

(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 a sample of all merchandise so advertised for at least 30 days after advertisement publication, and must carry sufficient merchandise stock ~~to~~ ~~so~~ service be able to meet

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Series I, Sec. 7.03

all demands for such items, with no increase in price,
for such stated period of 30 days.

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