

**Oregon Mortuary & Cemetery Board**  
**NOTICE TO INTERESTED PARTIES**

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**FROM:** Lynne Nelson, Compliance Manager  
**TO:** Interested Parties; Funeral Establishments  
**DATE:** May 24, 2005  
**RE:** Description of Forwarding of Remains in the General Price List

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In a facility's General Price List, the item, "*Forwarding remains to another funeral home*" often includes "*embalming*" when the management chooses to include this service in their total cost of *forwarding remains*.

It is the Board's position that including the services of "embalming" in forwarding remains, without some additional clarification, may be misleading because embalming is not always necessary when forwarding remains.

The FTC Funeral Rule Guide (page 33), provides a sample of a description of service for "*Forwarding of Remains to Another Funeral Home*:"

*"Our charge includes: basic services of funeral director and staff; a proportionate share of overhead costs; removal of remains; embalming or other preparation of remains, if relevant; and local transportation."*

Accordingly, to ensure the consumer knows that embalming is an item that may not be necessary to transport remains, and therefore a service that may be requested or selected by the consumer, please add the words "if relevant" or "if necessary," using commas or parenthesis after the word "embalming."

Examples of how this could read in the description of Forwarding of Remains in the General Price List:

*"...embalming or other preparation of remains, if relevant,"*  
*"...embalming (if necessary),"*  
*"...embalming, if relevant,"*

**LEGAL AUTHORITIES:**

**16 CFR 453.2 Price Disclosures**

(a) Unfair or Deceptive Acts or Practices

In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services

used in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals. Any funeral provider who complies with the preventive requirements in paragraph (b) of this section is not engaged in the unfair or deceptive acts or practices defined here.

(4) General Price List

(i) (A) Give a printed or typewritten price list for retention to persons who inquire in person about the funeral goods, funeral services or prices of funeral goods or services offered by the funeral provider. The funeral provider must give the list upon beginning discussion of any of the following:

- (1) the prices of funeral goods or funeral services;
- (2) the overall type of funeral service or disposition; or
- (3) specific funeral goods or funeral services offered by the funeral provider.

(ii) Include on the price list, in any order, the retail prices (expressed either as the flat fee, or as the price per hour, mile or other unit of computation) and the other information specified below for at least each of the following items, if offered for sale:

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

**16 CFR 453.4 Required Purchase of Funeral Goods or Funeral Services.**

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(b) Other Required Purchases of Funeral Goods or Funeral Services

(1) Unfair or Deceptive Acts or Practices

In selling or offering to sell funeral goods or funeral services, it is an unfair or deceptive act or practice for a funeral provider to:

(i) Condition the furnishing of any funeral good or funeral service to a person arranging a funeral upon the purchase of any other funeral good or funeral service, except as required by law or as otherwise permitted by this part;

(ii) Charge any fee as a condition to furnishing any funeral goods or funeral services to a person arranging a funeral, other than the fees for:

- (1) services of funeral director and staff, permitted by 16 CFR 453.2(b)(4)(iii)(C);
- (2) other funeral services and funeral goods selected by the purchaser; and
- (3) other funeral goods or services required to be purchased, as explained on the itemized statement in accordance with 16 CFR 453.3(d)(2).

(2) Preventive Requirements

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(ii) A funeral provider shall not violate this section by failing to comply with a request for a combination of goods or services which would be impossible, impractical, or excessively burdensome to provide.

**16 CFR 453.5 Services Provided Without Prior Approval**

(a) Unfair or Deceptive Acts or Practices

In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for any provider to embalm a deceased human body for a fee unless:

- (1) State or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which the family might make; or
- (2) Prior approval for embalming (expressly so described) has been obtained from a family member or other authorized person; or
- (3) The funeral provider is unable to contact a family member or other authorized person after exercising due diligence, has no reason to believe the family does not want embalming performed, and obtains subsequent approval for embalming already performed (expressly so described). In seeking approval, the funeral provider must disclose that a fee will be charged if the family selects a funeral which requires embalming, such as a funeral with viewing, and that no fee will be charged if the family selects a service which does not require embalming, such as direct cremation or immediate burial.

**OAR 830-030-0010 Care of Human Remains**

(1) All human remains that will be embalmed shall be disinfected by approved disinfecting solutions in such manner to help eliminate the danger of spreading diseases or infection. All human remains that are not going to be embalmed must be wrapped in a sheet. If a human remains is to be held longer than 24 hours, it must at minimum either be embalmed or refrigerated at 36 degrees F. or less until final disposition.

**OAR 830-030-0060 Rules for Transportation of Human Remains (Does not Include Removal of Deceased from Place of Death to Funeral Establishment, Cemetery, Crematory or Other Holding Facility)**

(1) When an unembalmed human remains is to be transported to a destination after 24 hours after death the remains may be removed from refrigeration and transported as described in OAR 830-030-0080(1) providing that the remains can be transported to its destination within the six hour time-frame. If the remains cannot be transported to its destination within the six hour time-frame, it shall be embalmed or placed in a sealed casket.

(2) No disinterred human remains shall be transported from one cemetery to another within the State of Oregon or transported out of the state, except by permit of the State Health Division. A disinterred human remains shall be any human remains removed from one cemetery to another cemetery (this does not apply to cremated human remains\cremains).

**OAR 830-030-0080 Requirements for the Holding of Funerals**

(1) If a public or private funeral service and/or public viewing is desired over an unembalmed refrigerated human remains, the unembalmed human remains shall not be removed from refrigeration for longer than a total of six hours. No public or private funeral service or public viewing shall be held over the remains of an unwashed, human remains.

(2) No public viewing shall be held over the remains of persons dead from any of the communicable diseases unless embalmed.

(3) Nothing in this section is meant to limit or discourage identification or private viewing of an unwashed, unembalmed human remains by family members or hinder religious customs.

**OAR 830-050-0050 Cause for Disciplinary Action**

The following circumstances may be considered grounds for reprimand, assessment of civil penalty, or refusal to grant, refusal to renew, revocation, or suspension of an applicant's or a licensee's license, certificate, or registration.

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(9) Fraudulent or dishonest conduct where such conduct bears a demonstrable relationship to sales and/or business practices.

**ORS 692.180 Grounds for revocation, suspension or refusal to issue or renew licenses or certificates; civil penalty; investigation; confidentiality.**

(1) Upon complaint or upon its own motion, the State Mortuary and Cemetery Board may investigate any complaint concerning any person, licensee or holder of a certificate of authority made by any person or by the board. If the board finds any of the causes described in this section in regard to any person, licensee or applicant or the holder of a certificate of authority, the board may impose a civil penalty of not more than \$1,000 for each violation, suspend or revoke a license to practice or to operate under this chapter or refuse to grant or renew a license. The causes are as follows:

(a) Misrepresentation in the conduct of business or in obtaining a license.

(b) Fraudulent or dishonest conduct, when the conduct bears a demonstrable relationship to funeral service practice, embalming practice or the operation of cemeteries or crematoriums.