

COMPLYING WITH THE FUNERAL RULE

An online course based on the Federal Trade Commission (FTC) Funeral Rule which went into effect on 4/30/84 and then revised in 1994. All “funeral providers” must comply with the Rule.

Maryland State Funeral Directors Association
Online Course – 1.0 CEU
October 2017

Credit approved and accepted by the Maryland Board of Morticians & Funeral Directors

COURSE OBJECTIVES

At the end of this program, the participant will be able to:

- ✓ Verbalize knowledge of key requirements related to price lists
- ✓ Understand who must comply with the Funeral Rule
- ✓ Understand specific information required in all price lists (General, Casket, Outer Burial Container, and Alternative Price Lists for Special Groups)
- ✓ Know the rights of the consumer regarding price lists and selection of funeral goods and services

INTRODUCTION

The Funeral Rule requires all “funeral providers” to give consumers accurate, itemized price information and various other disclosures about funeral goods and services. Additionally, the Rule prohibits:

- Misrepresenting legal, crematory, and cemetery requirements
- Embalming for a fee without permission
- Requiring the purchase of a casket for direct cremation
- Requiring consumers to buy certain funeral goods or services as a condition for furnishing other funeral goods or services
- Engaging in other deceptive or unfair practices



**Complying
With the
Funeral Rule**

VIOLATION OF THE FUNERAL RULE

Violation of the Funeral Rule can result in penalties of up to \$40,654 per violation.



WHO MUST COMPLY WITH THE FUNERAL RULE?



All “funeral providers” must comply with the Rule. You are a funeral provider if you sell or offer to sell both funeral goods and funeral services to the public.

Funeral Goods are products sold directly to the public in connection with funeral services.

Funeral Services are:

- services used to care for and prepare bodies for burial, cremation, or other final disposition; and
- services used to arrange, supervise or conduct the funeral ceremony or final disposition of human remains.

WHO MUST COMPLY WITH THE FUNERAL RULE? (continued)

You are a funeral provider if you sell or offer to sell funeral goods **AND** both types of funeral services. You do not have to be a licensed funeral director and your business does not have to be a licensed funeral home to be covered by the Funeral Rule. Cemeteries, crematories, and other businesses can also be “funeral providers” if they market both funeral goods and services.

You must comply with the Rule even if a particular consumer buys only goods or only funeral services, but not both. If you offer to sell both goods and services, you must comply with the Rule for every customer. **HOWEVER**, you are not covered by the Rule if you sell only funeral goods, such as caskets, but **NOT** services relating to the disposition of remains.

You are covered by the Rule even if you organize your business to sell goods through one company and services through another. If you are a funeral provider, you cannot avoid being covered by the Rule by restructuring your business.

HOW DOES THE RULE APPLY TO PRE-NEED ARRANGEMENTS?

The Rule's requirements apply to both pre-need and at-need funeral arrangements.

In pre-need situations, you must comply with all Rule requirements at the time funeral arrangements are pre-planned. You also need to comply with the Rule after the death of the individual who made pre-need arrangements. If the survivors inquire about goods or services, alter the pre-planned arrangements, or are required to pay additional sums of money, you must give them all relevant disclosures and price lists.

Note: The Rule does not apply to pre-need contracts entered into before the Rule went into effect in 1984. HOWEVER, if a pre-need contract signed before 1984 is modified after 1984, the modification triggers all of the Rule's requirements.

The General Price List (GPL) – The Keystone of the Funeral Rule

The General Price List (GPL) must contain identifying information, itemized prices for the various goods and services that you sell, and other important disclosures. The GPL enables consumers to comparison shop and to purchase, on an itemized basis, only the goods and services they want.



WHO GETS A GENERAL PRICE LIST (GPL)?

You must give the General Price List (GPL) to **ANYONE** who asks, in person, about funeral goods, funeral services, or the prices of such goods or services. You must give the GPL to such individuals to keep. The request for information does not have to come from a consumer or someone who wants to make funeral arrangement now or in the future. You must give a GPL to all persons who inquire about funeral arrangements. This may include competitors, journalists, and representatives of businesses, religious societies, government agencies, or consumer groups,

WHEN SHOULD THE GPL BE OFFERED?

You do not have to hand out the General Price List as soon as someone walks into your business, but you must offer the price list when you begin to discuss any of the following:

- the type of funeral or disposition that you can arrange;
- the specific goods and services that you offer; or
- the prices of your goods and services.



A face-to-face meeting is the triggering event for giving out the GPL. This meeting can occur anywhere, not just at the funeral home. You must give out a GPL even if the discussion of prices or arrangements takes place in the family's home or while removing the deceased from a hospital or a nursing home.

DOES THE RULE REQUIRE THE GPL BE GIVEN TO KEEP?

A verbal offer of a GPL is not enough to comply with the Rule. You cannot merely tell consumers that a GPL is available for inspection. You also cannot show them a GPL in a booklet or binder where it appears that there is only one copy available or that the booklet is solely for the funeral director's use. **YOU MUST PHYSICALLY OFFER CONSUMERS A GENERAL PRICE LIST THAT THEY CAN KEEP AND TAKE HOME WITH THEM.**



INFORMATION REQUIRED ON THE GPL

The General Price List should be printed or typewritten and must contain the following identifying information:

- ✓ The name, address, and telephone # of the funeral provider's place of business, including (where relevant) the address and telephone # for each branch
- ✓ The caption "General Price List"
- ✓ The effective date of the price list

INFORMATION REQUIRED ON THE GPL

(continued)

The Rule also requires that the General Price List includes the following six disclosures:

1. The consumer's right to select only the goods and services desired
2. Embalming is not required by law
3. Alternative containers can be used for direct cremation
4. The basic services fee
5. The casket price list
6. The outer burial container price list



INFORMATION REQUIRED ON THE GPL

(continued)

The Rule requires the itemization of prices for certain goods and services so consumers may choose only those elements of a funeral that they want. The following 16 specified items of goods and services on the General Price List, together with the price for each item:

1. Forwarding of remains to another funeral home
2. Receiving remains from another funeral home
3. Direct cremation
4. Immediate burial
5. Basic services of funeral director and staff, and overhead
6. Transfer of remains to funeral home
7. Embalming
8. Other preparation of the body
9. Use of facilities and staff for viewing
10. Use of facilities and staff for funeral ceremony
11. Use of facilities and staff for memorial services
12. Use of equipment and staff for graveside service
13. Hearse
14. Limousine
15. Either individual casket prices or the range of casket prices that appear on the Casket Price List
16. Either individual outer burial container prices or the range of outer burial container prices that appear on the Outer Burial Container Price List

ALTERNATIVE PRICE LISTS FOR SPECIAL GROUPS

Children & Infants – some funeral providers have a separate price list for funeral arrangements for children and infants. If you prepare separate price lists, you need not give them out to anyone except those persons inquiring about a funeral for a child or an infant.

Government Agencies – some funeral providers enter into agreements with government agencies to provide funeral arrangements for indigent persons (or other persons entitled to a government benefit).

Religious Groups & Memorial Societies – some funeral providers enter into agreements with religious groups, burial societies, or memorial societies to arrange funerals for their members at special prices.

Note: In certain situations, you may use alternative price lists, however, you still must comply with all Rule provisions including mandatory disclosures and itemized prices.

CASKET PRICE LIST (CPL): INFORMATION

If you do not list the retail price of each casket on your General Price List, you must prepare a separate printed or typewritten Casket Price List (CPL). The CPL must include the following basic information:

- ✓ The name of your business
- ✓ The caption “Casket Price List”
- ✓ The effective date for the Casket Price List
- ✓ The retail price of each casket and alternative container that does not require special ordering*, with enough information to identify it

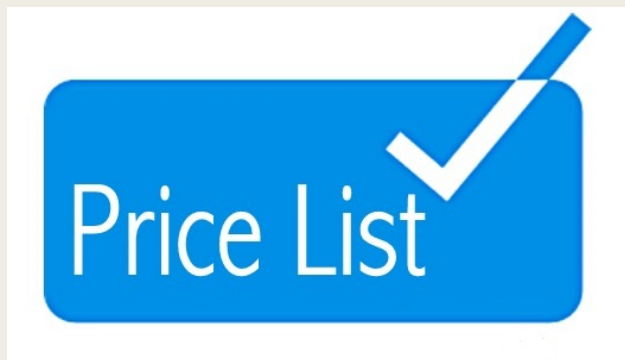
* Special ordering means purchasing a casket or container that is not in stock and not part of your regular offerings to your customers.

USING THE CASKET PRICE LIST (CPL)

You must show the Casket Price List to anyone who asks in person about the caskets or alternative containers that you offer or inquires about their prices.

Unlike the General Price List, you do not have to give the consumer a Casket Price List to keep.

If you use a manufacturer's or supplier's casket showroom outside of the funeral home, you must offer the Casket Price List.



Note: Consumers should not first learn of casket prices by entering the casket showroom and reading price cards placed on individual caskets or by having the funeral director recite such information orally.

OUTER BURIAL CONTAINER PRICE LIST (OBC PRICE LIST)

If you sell outer burial containers* and do not list the retail price of each such container on your General Price List, you must prepare a separate printed or typewritten Outer Burial Container Price List (OBC Price List). Information on the OBC Price List includes:

- The name of your business
- The caption “Outer Burial Container Price List”
- The effective date of the price list
- The retail price of each outer burial container you offer that does not require special ordering, with enough information to identify the container
- This disclosure: “In most areas of the country, state or local law does not require that you buy a container to surround the casket in the grave. However, many cemeteries require that you have such a container so that the grave will not sink in. Either a grave liner or a burial vault will satisfy these requirements.” [The phrase “in most areas of the country” can be deleted from the disclosure if the state or local law does not require a container to surround the casket in the grave.]

* The term “outer burial container” refers to any container designed to be placed around the casket in the grave. Such containers may include burial vaults, grave boxes, and grave liners.

USING THE OBC PRICE LIST



- You must show this price list to all persons asking about outer burial containers or their prices.
- You must offer this price list when you begin to discuss outer burial containers, but before showing the containers.
- Consumers must be able to look at the price list before discussing their options or seeing the actual containers.

STATEMENT OF FUNERAL GOODS & SERVICES SELECTED

- The Statement of Funeral Goods and Services Selected is an itemized list of the goods and services that the consumer has selected during the arrangements conference.
- The Statement allows consumers to evaluate their selections and to make any desired changes.
- The information required on the Statement can be included on a contract or any other document that you give to customers at the conclusion of the arrangements discussion.
- The categories of goods and services listed on the Statement (or other similar document) should generally correspond to the items listed on the General Price List so that customers can easily compare the two documents.

STATEMENT OF FUNERAL GOODS & SERVICES SELECTED – COST INFORMATION

- Individual goods and services that the consumer will purchase, together with the price for each item, should be listed. You cannot simply lump together goods and services that are listed separately on the General Price List.
- You may still offer funeral packages, as long as they are offered **in addition to, not in place of**, itemized prices.
- You must list each cash advance item separately on the Statement, together with the price for each item.

STATEMENT OF FUNERAL GOODS & SERVICES SELECTED – DISCLOSURES

You must place the following three disclosures on your Statement:

- **Legal Requirements** – stating that you will charge consumers only for the items they have selected and that you will explain any legal, cemetery, or crematory requirements in writing.
- **Embalming** – the form should have space for you to explain the reason for embalming and the need for prior approval.
- **Cash Advance Items** – charges for services in buying cash advance items. If you charge for purchasing a cash advance item, or if you receive and retain a rebate, commission, or trade or volume discount for a cash advance item, you must make the following disclosure:
 - ❖ We charge you for our services in obtaining: (specify cash advance items)

TELEPHONE PRICE DISCLOSURES

You must give consumers who telephone your place of business and ask about your prices or offerings accurate information from your General Price List, Casket Price List, and Outer Burial Container Price List.

You must answer any other questions about your offerings and prices with any readily available information that reasonably answers the question.

You do not have to give price and other information after business hours if it is not your normal practice to do so. **HOWEVER**, if a consumer calls after hours to inquire about an at-need situation, and it is your practice to make funeral arrangements during non-business hours, you should provide price or other information the consumer requests.



MISREPRESENTATIONS PROHIBITED BY THE RULE

The Funeral Rule prohibits specific misrepresentation in six areas:

1. **Embalming** – You cannot tell consumers that state or local law requires embalming if that is not true. If state law does require embalming, you may tell the family that embalming is required due to the specific circumstances. You also must tell the consumer in writing that embalming is not required by law if that's true in your state. You do this by including on your General Price List the mandatory embalming disclosure.
2. **Casket for Direct Cremation** – You cannot tell consumers that state or local law requires them to buy a casket if they are arranging a direct cremation.
3. **Outer Burial Container** – You cannot tell consumers that state or local law requires them to buy an outer burial container, if that is not true.

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MISREPRESENTATIONS PROHIBITED BY THE RULE (continued)

4. **Legal and Cemetery Requirements** – You cannot tell consumers that any federal, state, or local law or a particular cemetery or crematory requires them to buy a particular good or service, if that is not true.
5. **Preservative and Protective Value Claims** – You cannot make any representations to consumers that funeral goods or services will delay the natural decomposition of human remains for a long term or an indefinite items. You cannot tell consumers that funeral goods (such as caskets or vaults) have protective features or will protect the body from gravesite substances when that is not true.
6. **Cash Advance Items** – If you markup the charge on cash advance items or receive a commission, discount, or rebate that is not passed on to the consumer, you cannot state that the price charged for the cash advance item is the same as your cost.

WHAT CONSUMERS CANNOT BE REQUIRED TO PURCHASE

You cannot require consumers to buy unwanted or unneeded goods and services to get the item that they do want.

Consumers must be able to choose only the goods and services that they want, with certain limited exceptions as follows:

- The basic services of funeral director and staff (the one non-declinable fee allowed by the Rule).
- The funeral goods and services selected by the consumer.
- The funeral goods and services required to be purchased by law (or by the cemetery or crematory), as identified and explained on the itemized Statement of Funeral Goods and Services Selected.

Note: This means that you cannot charge an additional fee or surcharge to consumers who purchase a casket elsewhere as such a fee would not fall within the three categories of allowable charges listed above.

WHAT CONSUMERS CANNOT BE REQUIRED TO PURCHASE (continued)

You cannot alter your prices based upon the particular selections of each customer. The three exceptions to the consumer's general right to choose only the goods and services wanted are:

- the one non-declinable basic fee;
- items required by law (or by the cemetery or crematory); and
- impossible, impractical or excessively burdensome requests. (You do not have to comply with such requests, however, you cannot refuse a request simply because you don't like it or don't approve of it.)

PRIOR APPROVAL FOR EMBALMING

You can charge a fee for embalming, only in one of the following three circumstances:

1. State or local law requires embalming under the particular circumstances regardless of any wishes the family might have.
2. You have obtained prior approval for embalming from a family member or other authorized person.
3. All of the following apply:
 - You are unable to contact a family member or other authorized person after exercising due diligence.
 - You have no reason to believe that the family does not want embalming performed.
 - After embalming the body, you obtain subsequent approval.

RECORDKEEPING

You must keep price lists for at least one year from the date you last distributed them to customers.

You must keep a copy of each completed Statement of Funeral Goods and Services Selected for at least one year from the date of the arrangements conference.

You must make these documents available for inspection by Federal Trade Commission (FTC) representatives upon request.



COMPREHENSION OF DISCLOSURES

- ✓ You must make all the required disclosures to consumers in a clear and conspicuous manner. Your goal is to present the information in a reasonable understandable form.
- ✓ The disclosures must be legible – the print or type must be large and prominent enough that consumers can easily notice and read the information.
- ✓ Your price lists cannot include any information that alters or contradicts the information the Rule requires you to give in those price lists. (Your price lists can include other information, but this should be done in such a way as to not confuse or obscure the required information.)

THANK YOU!

Thank you for taking MSFDA's online course, *Complying With The Funeral Rule*.

Please note that while information contained in this course manual pertains to key points of information provided in the Federal Trade Commission's document "Complying With the Funeral Rule," it is not all inclusive. To access and read the full document, please go to www.ftc.gov/tips-advice/business-center/guidance/complying-funeral-rule or visit their site at www.ftc.gov. You can also visit their online Business Center at www.business.ftc.gov.

Source: Federal Trade Commission's Trade Regulation Rule Concerning Funeral Industry Practices ("Rule" or "Funeral Rule"), 16 C.F.R. Part 453 effective April, 1984. The Funeral Rule requires that funeral providers give consumers accurate, itemized price information and various other disclosures about funeral goods and services.