Complying With the Funeral Rule

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Introduction

These guidelines are intended to help you, the funeral provider, comply with the Federal Trade Commission (FTC or Commission) Funeral Rule. The Funeral Rule went into effect on April 30, 1984. The Commission revised the Rule early in 1994; revisions became effective later that year.

The Funeral Rule requires you to give consumers accurate, itemized price information and various other disclosures about funeral goods and services. In addition, the Rule prohibits you from:

- 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; and
- engaging in other deceptive or unfair practices.

If you violate the Funeral Rule, you may be subject to penalties of up to $40,654 per violation.

These guidelines do not amend or modify the Rule. They explain the requirements of the revised Funeral Rule and discuss how to prepare documents required by the Rule — the General Price List, the Casket Price List, the Outer Burial Container Price List, and the Statement of Funeral Goods and Services Selected. The guidelines also include sample price lists and a sample itemized statement form. These guidelines represent the FTC staff's view of what the law requires. They are not binding on the Commission.

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 all 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.

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.

Does the Rule Apply to Pre-Need Arrangements?

The Rule's requirements, as described on the following pages, 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. For example, survivors may be asked to pay additional amounts if the pre-paid plan does not guarantee prices at the time of death. In other cases, survivors may change arrangements specified in the pre-need plan, adding or subtracting certain goods or services. In both situations, the requirements of the Rule apply. You must give the survivors relevant price lists, as well as an itemized Statement of Funeral Goods and Services Selected.

You also must comply with the Rule if you sell pre-need contracts on behalf of one or more funeral homes, but do not yourself provide funeral goods and services. In such a case, even though you don't provide the funeral items, you are an agent of a funeral provider and therefore are covered by the Rule.

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.

> **Example:** Mr. Green made pre-need arrangements in 1980; he dies in 2010. At the time of his death, his wife wants to change the casket specified in the pre-need contract and to add visitation hours. Because Mrs. Green is changing the contract after 1984, the funeral provider must comply with all of the Rule's requirements, including giving Mrs. Green a General Price List, showing her a Casket Price List, and providing her with an itemized Statement of Goods and Services Selected.
>
> **Note:** In a situation like the example, you should check your state law to determine whether it allows you to alter the terms of such a contract.

The General Price List

The General Price List (GPL) is the keystone of the Funeral Rule. It must contain identifying information (see page 4), itemized prices for the various goods and services that you sell (see pages 7-11), and other important disclosures (see pages 5-7). The GPL enables consumers to comparison shop and to purchase, on an itemized basis, only the goods and services they want.

Who Gets a GPL?

You must give the General Price List 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 arrangements 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.

> **Note:** If someone asks you about the goods and services that you sell, you must give that person a General Price List. If you are uncertain whether the Rule applies in a particular situation, it would be sensible to provide the list.

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.

Before giving a GPL to a bereaved individual, you may offer your condolences and discuss preliminary matters like veteran's benefits or death certificates.

The triggering event for giving out the GPL is a face-to-face meeting. The ***face-to-face*** meeting can occur anywhere, not just at the funeral home. For example, you must give out a General Price List 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. You should tell your employees to carry extra price lists with them.

> **Exception:** You are not required to offer a General Price List if you remove the deceased for transportation to the funeral home and, at that time, only request the authorization to embalm. When you request authorization to embalm, however, you also must:
>
> Disclose that embalming is not required by law (except in special cases, if relevant); and
>
> Refrain from further discussion about prices or the selection of funeral goods or services while you remove the deceased. Any further discussion of prices or the selection of goods or services at this time would trigger the requirement to provide a GPL.

What About Phone or Mail Inquiries?

You must give certain information to people who telephone (see page 17), but the Rule does not require you to send callers a General Price List. Similarly, you do not have to send a GPL in response to mail inquiries about funeral goods and services. Of course, you certainly are free to send a GPL to someone who calls or writes for information if you wish to do so. However, if a telephone or mail inquiry is followed up by a meeting at the funeral home or elsewhere, you must provide a GPL at that time.

> **Note:** Some states require funeral providers to mail a price list upon request. You should check to see what the requirements are in your state.

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. If the consumer does not want to accept or look at the General Price List, you do not have to do anything else. However, you should do nothing to discourage customers from looking at the GPL, such as telling them that it is unnecessary or difficult to understand.

> **Note:** You cannot charge a fee for the price list or place any conditions upon giving consumers information that the Rule requires you to give to them. You must give all required information to anyone who asks, free of charge.

What About the GPL and Pre-need Arrangements?

You must give out a General Price List in all pre-need situations. Because you may sell different goods and services on a pre-need basis, your pre-need GPL may vary from the GPL you use in at-need situations. However, any General Price List that you use for pre-need arrangements must include all required disclosures (see pages 5-7) and offer goods and services on an itemized basis (see pages 7-11). You cannot offer only package funerals to pre-need customers.

In addition, as stated above (see page 2), you must give a GPL to anyone who wishes to modify the funeral goods or services already purchased under a pre-need contract or to a survivor who must pay an additional sum because prices have increased since the time the arrangements were pre-planned.

> **Example:** Mr. Stone made pre-need arrangements before his death. His wife wants to change the casket and the services that he bought under the pre-need contract. You must give Mrs. Stone a General Price List at the beginning of the discussions and show her a Casket Price List before she looks at any caskets.

Information Required on the GPL

Identifying Information

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

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

Required Disclosures on the GPL

The Rule also requires you to make six disclosures on your General Price List.[1] These disclosures discuss:

1. The consumer's right to select only the goods and services desired
2. Embalming
3. Alternative containers for direct cremation
4. The basic services fee
5. The Casket Price List
6. The Outer Burial Container Price List

Each of these disclosures is discussed in the following sections. You must place these required disclosures on the General Price List exactly as the Rule provides. (See the Sample GPL at the end of this publication.)

In addition, you must use the ***identical wording*** given in the Rule. You cannot edit or paraphrase.

> **Note:** You can include additional information, such as a reference to your own state laws. But, you cannot change the FTC language or add anything that will modify the FTC language.

1. Right of Selection

The first disclosure informs consumers that they have a right to select only the items they want to buy, besides a non-declinable basic services fee (see pages 9-10 for a detailed description of this fee).[2] You should place this statement immediately above the prices of the goods and services that you offer. The statement should read as follows:

> The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. **However, any funeral arrangements you select will include a charge for our basic services and overhead.** If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.

You must include the third sentence of the disclosure, indicated in bold-face above, if customers cannot decline the basic services fee. You may add the phrase "and overhead" after the word "services," as shown above, if the fee includes the recovery of overhead costs.

2. Embalming

The second disclosure tells consumers that the law usually does not require embalming.[3] The statement should read as follows:

> [Except in certain special cases,] [E]mbalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial.

Delete the phrase, "Except in certain special cases," from the embalming disclosure if state or local law in the area where you do business does not require embalming for a viewing or funeral. If you want to add information about state law requirements, you can do so after the FTC disclosure. You should place this disclosure in immediate conjunction with the price for embalming.

> **Note:** "In immediate conjunction" means that the embalming disclosure must appear directly next to the price for embalming. You should not put the disclosure on a separate page or anywhere else on the GPL apart from the embalming price. (See the Sample GPL at the end of this publication.)

3. Alternative Containers

The third disclosure informs consumers that they may use alternative containers (defined in the revised Rule) for direct cremations.[4] This disclosure must read as follows:

> If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are (*specify containers*).

You should place this disclosure in immediate conjunction with (directly next to) the price range for direct cremation. At the end of the last sentence, you should describe the specific kind of container(s) that you offer. If you don't arrange direct cremations, you don't need to include this disclosure on the GPL.

4. Basic Services Fee

The fourth disclosure tells consumers about any "basic services fee" (the fee for the professional services of the funeral director and staff) that you will add to the total cost of the funeral arrangements.[5] This basic services fee could include a charge for the services you perform in conducting the arrangements conference, planning the funeral, securing the necessary permits, preparing the notices, and coordinating the cemetery or crematory arrangements. This fee also may include overhead that you have not allocated elsewhere. You can include this fee on your General Price List in one of two ways:

Option 1: If you list a separate basic services fee and the charge is non-declinable (the consumer does not have the option of declining the charge), you must provide the following disclosure:

> This fee for our basic **services and overhead** will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)

If you decide on Option 1, this disclosure must appear together with the price for the basic services and with a description of the services you include for that price. (You cannot place this disclosure on a separate page or anywhere else on the GPL apart from the basic services price.) If this basic services fee is non-declinable, the price also must include all charges for the recovery of overhead that you have not allocated elsewhere. In this situation, the first sentence of your disclosure can include the phrase **"and overhead"** after the word **"services,"** as shown above.

Option 2: Instead of charging a separate basic services fee, you can include the services fee in your casket prices. With this alternative, you must include the following disclosure:

> Please note that a fee of (*specify dollar amount*) for the use of our basic **services and overhead** is included in the price of our caskets. This same fee shall be added to the total cost of your funeral arrangements if you provide the casket. Our services include (*specify*).

If you decide on Option 2, the fee should include all charges for the recovery of overhead costs not allocated elsewhere, and you may add the phrase **"and overhead"** after the word **"services"** in the first sentence, indicated in bold-face above. The disclosure must appear on the GPL together with the prices for the individual caskets or together with the casket price range if you have a separate Casket Price List.

5. Casket Price List

The fifth disclosure tells consumers that a Casket Price List is available.[6] You may list casket prices either on the General Price List or on a separate "Casket Price List." If you use a separate Casket Price List, your GPL should state the range of prices for the caskets you sell, together with the following disclosure: **A complete price list will be provided at the funeral home.**

6. Outer Burial Container Price List

The sixth disclosure informs consumers that an Outer Burial Container Price List is available.[7] Again, you can either put the prices for the outer burial containers on your General Price List, or you can provide a separate "Outer Burial Container Price List." If you use a separate price list, your GPL should

state the range of prices for the outer burial containers you sell, together with the following disclosure: **A complete price list will be provided at the funeral home.**

If you put the prices for the outer burial containers on your General Price List, you also must include the following disclosure in immediate conjunction with (directly next to) the outer burial container prices.

> [In most areas of the country], [S]tate 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.

If instead you provide a separate price list for outer burial containers, then you must include the above disclosure on your Outer Burial Container Price List (see page 14). Delete the phrase, "in most areas of the country," from the disclosure if your state or local law does not require a container to surround the casket in the grave.

Required Itemized Prices on the GPL

The Rule requires you to itemize the prices for certain goods and services so consumers may choose only those elements of a funeral that they want. You must list the following 16 specified items of goods and services on the GPL, together with the price for each item:[8]

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 service
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

You can list these items in any order you want. You only have to list the items that you actually offer. If you do not offer one or more of the 16 items, you need not list those items on the General Price List. In addition to these 16 items, you also may list other items that you offer, such as acknowledgement cards

and cremation urns. You also may provide prices for package funerals on your GPL. However, you must offer any package funerals ***in addition to and not in place of*** the required itemized prices.[9]

The itemized prices on your General Price List, as well as your Casket Price List and Outer Burial Container Price List, should be accurate and up-to-date. These prices should reflect the prices that you actually charge your customers.

Of course, you can offer a discount when there are special circumstances, such as arrangements for a friend or relative or a family that otherwise could not afford your services. The Rule does not prevent you from doing this. However, you should not inflate the prices on any of your price lists in order to offer all or most of your customers a discount. In that case, the "discounted" prices would be the *accurate* prices and should be reflected on the price lists.

Items 1-4: Minimal Services

Four items that the Rule requires you to list are: (1) forwarding of remains; (2) receiving remains; (3) direct cremation; and (4) immediate burial. Unlike the rest of the goods and services that you must list on the GPL, the prices for these four items ***must include*** any fee that you will charge consumers for the basic professional services of the funeral director and staff.

> **Example:** Ms. James wants to arrange an immediate burial for her father. In addition, she chooses acknowledgement cards, use of a limousine, and a graveside service. You should charge her the fee for an immediate burial plus the fees for the other items that she wants. But, you should not charge her an additional non-declinable basic services fee. **A charge for your basic services is already included in the price for the immediate burial.** The required disclosure about the basic services fee (see pages 9-10) informs the consumer of this fact.

For ***forwarding of remains*** and ***receiving remains,*** the GPL should list one price for each of these items and describe all services you will provide for the quoted price. The prices for these items should include all charges relating to each service, including any basic services fee and any facilities or equipment fees.

If you offer ***direct cremations,*** your GPL must state a price range, make the required disclosure about the availability of an alternative container (see page 5), and list each of these options within the range:

- a price for direct cremation if the consumer provides the casket or container
- a price for each direct cremation you offer with an alternative container

If you offer direct cremations, the Rule requires you to offer at least one alternative container. If you offer direct cremations with more than one alternative container, separately list a description of each container and its price.

Your GPL must describe the services you provide for each direct cremation you offer, such as direct cremation with a memorial service or direct cremation with scattering of ashes.

If you include the cost of cremation in your direct cremation price, **include the words "and cremation"** in your GPL's description of what you provide for direct cremation. However, if you use a crematory that someone else owns, you may treat the cremation charge as a cash advance item. In that case:

- **do not include** the words "and cremation" in your GPL's description of what you provide for direct cremation, and
- clearly explain that the added crematory charge will be estimated or itemized in the Statement of Funeral Goods and Services Selected.

For ***immediate burials,*** you must give a price range, together with each of the following separate options within the range:

- one price where the purchaser provides the casket; and
- a separate price for each form of immediate burial offered where you provide a casket or alternative container. (You are not required to make an alternative container available for this purpose. However, you may choose to offer this option.)

You also must describe in the GPL the services and container provided for each price. If the immediate burial option is available with any casket on your Casket Price List, the General Price List can simply state the price of the service and refer the customer to the Casket Price List for casket prices.

Item 5: Basic Services of Funeral Director and Staff (and Overhead)

The charge for services of funeral director and staff is a fee for the basic services that you furnish in arranging any funeral.[10] This is the "basic services fee" that is discussed in the Required Disclosures section. If the customer cannot decline this fee, the disclosure that appears on page 6 is required.

This basic services fee should include services that are common to virtually all forms of disposition or arrangements that you offer, such as conducting the arrangements conference, securing the necessary permits, preparing the notices, sheltering of remains, and coordinating the arrangements with the cemetery, crematory, or other third parties. The basic services fee should ***not*** include charges related to other items that must be separately listed on the General Price List and that the customer may decline to purchase.

> **Note:** You should include any charges for the ordinary sheltering of remains by your funeral home in this basic services fee. However, you can list a separate charge for sheltering of remains if: 1) a significant percentage of your customers do not use the funeral home to hold the remains at any point, or 2) you receive a request to hold the remains for an unusually long period of time.

The basic services fee also may include overhead from various aspects of your business operation, such as the parking lot, reception and arrangements rooms, and other common areas. It also may include insurance, staff salaries, taxes, and fees that you must pay. Alternatively, instead of including all overhead in your basic services fee, you can spread the overhead charges across the various individual goods and services you offer. As a third alternative, you can combine the first two approaches: spread some portion of the overhead charges across the individual items, while including the remainder of such charges in your basic services fee.

> **Note:** These are the only ways to recoup overhead costs. In addition, if this basic services fee is non-declinable, the fee must include any charges for overhead that have not been allocated to the other goods and services.

You have two options for listing your basic services fee on the General Price List.

Option 1: You may list a separate price for the basic services of the funeral director and staff, together with a list of the principal services provided for the price and the required disclosures (see pages 5-7). If consumers cannot decline this fee, you should include in this separate price all charges for "unallocated overhead" — that is all overhead not distributed among the other items listed on the GPL.

Option 2: Instead of charging a separate basic services fee, you may include the fee in your casket prices. With this alternative, you must include the appropriate disclosure (see page 6) on the General Price List, together with the prices for the individual caskets or with the casket price range (if you have a separate Casket Price List). This fee also must include all charges for the recovery of unallocated overhead. As the disclosure indicates, you must specify the amount of the basic services fee that is included in the price of the caskets. If the customer provides a casket obtained elsewhere, that same basic services fee must be added to the total cost of the arrangements selected.

The Rule expressly states that the basic services fee is the ***only non-declinable*** fee allowed for services, facilities, or unallocated overhead, unless state or local law requires otherwise. Other than the basic

services fee, you cannot charge any separate fee for overhead. Charging a second non-declinable fee, such as a "basic facilities fee" or a "casket handling fee," in addition to the basic services fee would violate the Rule. Moreover, you cannot list fees for "additional services" of the funeral director and staff, if those fees should be included in the basic services fee or in one of the other items required to be listed on the GPL.

> **Example:** You have a non-declinable fee for the basic services of funeral director and staff. You also list the following fee on your General Price List: Additional Services of the Funeral Director and Staff. This charge includes: a) coordinating and directing funeral ceremony; b) paying competitive salaries to employees; c) providing 24-hour on-call service to each family; d) maintaining funeral service licensing; and e) complying with federal and state codes and regulations.

This fee for additional services violates the Rule. All of the charges listed should be included elsewhere on the GPL. You should include charge (a) for coordinating and directing the funeral ceremony in the separate charge for a funeral ceremony. The other items, (b) through (e), relate to basic overhead. You either should include such charges in the basic services fee or allocate these costs among all the items listed on the GPL.

Items 6 - 16

You must list the following items separately with their respective prices. The charge for each item should include all service fees and any equipment or facility charges for providing that particular good or service. (You will not, however, include any portion of the "basic services fee," in any of these items.)

Transfer of remains to funeral home. You can choose any pricing method, such as a flat fee, an hourly charge, or a mileage charge. For example, you can charge a flat fee with or without an additional mileage charge for distances beyond a certain specified radius.

Embalming. Your price for embalming should include use of the preparation room, as well as the professional services, equipment, and materials involved in performing embalming. In addition, as discussed on page 5, you must tell consumers that the law does not require embalming.

Other preparation of the body. This charge should include such services as cosmetic work to prepare the deceased for viewing. Under this category, you can also show a price for washing and disinfecting when that procedure is used instead of embalming.

Use of facilities and staff for viewing. You may charge a flat fee or an hourly fee for the use of your facilities for viewing. Your price for a viewing should include charges for both the services of staff and the facilities used in connection with a viewing. You should not list two separate charges relating to a viewing, such as one for the facilities and another for the staff services. However, if you provide staff services for viewing held at another facility, such as a church or a home, you should list a separate fee for such services. (In this situation, a facilities charge would not be appropriate because your own facilities are not being used.)

Use of facilities and staff for funeral ceremony. The charge for a funeral ceremony, that is, a commemorative service with the body present, at the funeral home should include both the use of facilities and the necessary staff services. You should not list two separate charges relating to a funeral ceremony, such as one for the facilities and another for the staff services. However, if you provide staff services for a funeral ceremony at another facility, such as a church, you should list a separate fee for such services.

Use of facilities and staff for memorial service. This is a charge for a commemorative service ***without*** the body present. The charge should include both the use of facilities and the staff services. You should not list two separate charges relating to a memorial service, one for the use of facilities and another for the staff services. However, if you provide staff services for a memorial service at another facility, such as a church, you should list a separate fee for such services.

Use of equipment and staff for graveside service. Some families may choose to have a graveside service ***instead*** of a funeral ceremony at the funeral home. Your charge for this service should include both staff services and any equipment you may provide (such as a tent and chairs). You should not list two separate charges relating to a graveside service, one for equipment and another for staff services. If your charge for a funeral ceremony normally includes a committal service at the grave following the funeral, you can continue this practice, or you may offer a separate charge for a committal service following a funeral ceremony. The separate charge for a ***graveside service*** is intended for those situations where there is no funeral ceremony at the funeral home or elsewhere.

Hearse. You can use any pricing method for the use of a hearse, such as a flat fee, an hourly charge, or a mileage charge. For example, you can charge a flat fee with or without an additional mileage charge for distances beyond a certain specified radius.

Limousine. You can use any pricing method for the use of a limousine, such as a flat fee, an hourly charge, or a mileage charge. For example, you can charge a flat fee with or without an additional mileage charge for distances beyond a certain specified radius.

Casket prices. You can list casket prices in either of two ways: (1) you can list a casket price range, with the disclosure about the availability of the Casket Price List (see page 6); or (2) you can list the prices of individual caskets on your General Price List.

Outer burial container prices. As with casket prices, you can list outer burial container prices in either of two ways: (1) you can list an outer burial container price range, with the relevant disclosure about the Outer Burial Container Price List (see pages 6-7); or (2) you can list the prices of individual containers on your General Price List.

Alternative Price Lists for Special Groups

In certain limited situations, you may use alternative price lists.

> **Remember:** Even if you use alternative price lists, you still must comply with all Rule provisions, including mandatory disclosures and itemized prices.

1. Children and Infants

You can set different prices for funeral arrangements for children and infants. You can list the different fees in two ways. You can place these items on your General Price List, Casket Price List and Outer Burial Container Price List, along with your regular offerings; or you can prepare separate price lists for these arrangements. 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.

2. 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). When entering into such arrangements, you must follow all Rule requirements, including giving price lists to the government agent at the time you make or discuss such arrangements. You can add the prices for these special situations to your regular price list or prepare a separate price list for these arrangements. If you prepare a separate price list, you need not make it available to anyone except the government agency or persons who qualify for the special arrangements.

Some government agencies choose to contract for funeral arrangements on a package basis. You can offer funeral arrangements to anyone — including a government agency — on a package basis, as long as the funeral packages are offered in addition to, not in place of, itemized prices.

When qualifying persons inquire about these package funeral arrangements, you still should provide the GPL, with itemized prices and disclosures, and comply with all other Rule requirements at this time.

> **Note:** You should check your state laws to determine whether arrangements handled as part of an agreement with a government agency can be supplemented or modified by qualifying persons.

3. Religious Groups and 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. You are free to enter into such arrangements, but you must still comply with the Rule's requirements. You must provide price lists to representatives of these groups when they inquire about funeral arrangements on behalf of their members. In addition, if an individual group member inquires in-person about funeral arrangements, you must provide the individual with your price lists. Even if a member chooses a package available only to society members, the member must have the opportunity to look at your price lists. You can either have separate price lists for qualifying members or include such prices on your regular price lists.

The Casket Price List: Information and Use

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).[11]

Information to be Included

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; and
- the retail price of each casket and alternative container that does not require special ordering, with enough information to identify it.

You must give enough descriptive information about each casket on the CPL to enable consumers to identify the specific casket or container and understand what they are buying. For example, the CPL could describe the exterior appearance (including the gauge of metal or type of wood), the exterior trim, and the interior fabric. You also may give any other information, such as a photograph or manufacturer name and model number. However, a photograph or model number alone is not a sufficient description under the Rule.

You need list only those caskets that you ***usually offer*** for sale that do not require special ordering, as well as the alternative container(s) you offer for direct cremation. "Special ordering" means purchasing a casket or container that is not in stock and not part of your regular offerings to your customers. Except for the requirement that you make an alternative container available if you offer direct cremation, the Rule does not require you to offer any particular caskets or alternative containers. However, both caskets and alternative containers should be listed on the CPL. You should not have a separate list for alternative containers.

The Rule does not require you to list the caskets or containers that you offer in any particular format or order. The Casket Price List can be in any form, including in a notebook or on a chart, as long as it contains the required information, displayed in a clear and conspicuous manner.

Moreover, you do not have to include customized caskets on your CPL, or list caskets that you keep in your inventory to fill pre-existing, pre-need contracts, but which you no longer regularly offer for

sale. Nor is it necessary to prepare a new price list if a casket or container is temporarily out-of-stock. You can simply tell the consumer which casket is not available when you give the consumer the CPL. Also, if a particular casket is available in a variety of interior materials and designs or exterior hardware and finishes, you can simply note that fact on the Casket Price List; you need not list each variation separately. (See also Sample CPL at the end of this publication.)

Using the Casket Price List

You must show the CPL to anyone who asks in person about the caskets or alternative containers that you offer or inquires about their prices. You must offer the CPL ***when you begin discussing caskets or alternative containers — but before showing these items.*** Consumers must be able to look at the price list before discussing their options or seeing the actual caskets.

> **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.

You can use individual price cards, but only in addition to a Casket Price List. Unlike the General Price List, you do not have to give the consumer a Casket Price List to keep. However, you may do so if you wish.

The Rule does not require that you display the caskets in any specific manner. (Note, however, that many states have regulations regarding the manner of display.) In fact, the Rule does not require that you display any caskets. Some funeral providers present their selections through a book containing photographs of the various caskets offered for sale. In this case, you must incorporate in the book all the information required for the CPL (see page 12), including the heading "Casket Price List."

If you use a manufacturer's or supplier's casket showroom outside of the funeral home, you must offer the CPL when the discussion of caskets begins. If you begin discussing caskets in your place of business, you must offer the Casket Price List at that time. However, if you do not begin discussing caskets until you arrive at the manufacturer's or supplier's showroom, you do not have to show a CPL until you arrive and the discussion begins.

In addition to using a CPL as described, you must show a Casket Price List to anyone who wishes to modify the particular casket already purchased under a pre-need contract.

> **Example:** Ms. Todd's father entered into a pre-need contract in 1989. If Ms. Todd chooses to upgrade the casket provided under the pre-need contract or inquires about other casket offerings, you should show her a CPL.

The Outer Burial Container Price List: Information and Use

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).[12] 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.

Information to be Included on the OBC Price List

The OBC Price List must contain the following basic information:

- 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; and
- this disclosure, as discussed on page 7:

  [In most areas of the country], [S]tate, 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.

  Delete the phrase "in most areas of the country" from the disclosure if your state or local law does not require a container to surround the casket in the grave.

You must give enough descriptive information about each outer burial container in your OBC Price List to enable consumers to identify the specific container. You need list only those containers that you ***usually offer*** for sale and that do not require special ordering. "Special ordering" means purchasing an outer burial container that is not in stock and not part of your regular offerings to your customers. However, the Rule does not require you to offer any particular outer burial containers; in fact, it does not require you to sell any outer burial containers.

The Rule does not require listing the containers that you offer in any particular order. The OBC Price List can be in any form, including in a notebook or on a chart, as long as it contains the required information, including the heading "Outer Burial Container Price List," displayed in a clear and conspicuous manner.

You do not have to list containers that you keep in your inventory to fill existing pre-need contracts, but which you no longer regularly offer for sale. Nor is it necessary to prepare a new price list if a container is temporarily out-of-stock. You can simply tell the consumer which container is not available when you give the consumer the OBC Price List. (See the Sample OBC Price List.)

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. (The Rule does not require that you display outer burial containers in any specific manner. Note, however, that many states have regulations regarding the manner of display.)

Again, it is ***not*** enough for you to tell consumers about price information or to place price cards on top of individual containers or models of containers. You can use individual price cards, but only in addition to an OBC Price List. Unlike the GPL, you do not have to give the OBC Price List for retention. However, you may do so if you wish.

Some funeral providers present their outer burial container selections through a book containing photographs of the various containers offered for sale. If you choose this approach, you must incorporate all the information required for the OBC Price List (see pages 13-14) into the book.

In addition to using an OBC Price List as described, you must show this price list to anyone who wishes to modify the particular container already purchased under a pre-need contract.

Statement of Funeral Goods and Services Selected: Cost Information and Disclosures

The Statement of Funeral Goods and Services Selected (Statement) is an itemized list of the goods and services that the consumer has selected during the arrangements conference.[13] The Statement allows consumers to evaluate their selections and to make any desired changes.

The Rule does not require any specific form, heading or caption on the Statement. 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 GPL, so that customers can easily compare the two documents.

You must give each consumer a completed Statement at the end of the arrangements discussion. If arrangements are made in person, you should give the Statement at this time. Giving a consumer a copy of the Statement at the funeral or mailing it to the consumer at some later date does not meet the requirements of the Rule.

> **Note:** The Rule does not address the manner or timing of payment. That is between you and the customer.

If arrangements are made over the telephone, you should give the consumer the Statement at the earliest possible date.

> **Example:** On Wednesday evening, Mrs. Shelley calls you to make funeral arrangements for her father and tells you that she will come to the funeral home on Thursday morning to finalize such arrangements. When Mrs. Shelley arrives the next morning, you should give her the required GPL and confirm the arrangements made. Then, once you finalize the arrangements, you should give Mrs. Shelley the Statement.

If a consumer makes all funeral arrangements by telephone, you should make a reasonable attempt to give a completed Statement to the consumer before a final disposition of the remains occurs. If the consumer does not visit the funeral home in person before the final disposition, you should still give or send a completed Statement to the consumer as soon as possible.

The Rule requires you to include cost information and specific disclosures on the Statement.

Cost Information

You should list all of the individual goods and services that the consumer will purchase, together with the price for each item. You cannot simply lump together goods and services that are listed separately on the GPL.

> **Example:** Your Statement would violate the Rule if it listed only three broad categories for "Services," "Facilities," and "Automotive Equipment."

You may still offer funeral packages, as long as they are offered **in addition to, not in place of,** itemized prices. If the consumer selects a package (after you offer itemized prices), your Statement should describe the package, listing individually each of the goods and services included in the package, and state the package price.

You also must list each cash advance item separately on the Statement, together with the price for each item. Cash advance items are items of service or merchandise that:

- are described to a consumer as a "cash advance," "accommodation," "cash disbursement," or by any similar term; or

- you obtain from a third party and pay for on the consumer's behalf. (See also cash advance disclosure below.)

Cash advance items may include such things as cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.

If you don't know the price of a particular cash advance item, you should enter a good faith estimate. However, you should give a written statement of the actual charges before the final bill is paid.

Finally, you must give the consumer the total cost of the arrangements selected (individual goods and services plus cash advance items).

Disclosures

You must place the following three disclosures on your Statement. They should be set out, word-for-word, ***exactly*** as the Rule prescribes.

1. Legal Requirements

The first disclosure states 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.[14]

> Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below.

The form should leave enough space for you to identify and explain in writing any legal, cemetery, or crematory requirement that compels the consumer to purchase a specific funeral good or service. You should enter this information on the Statement before it is given to the customer.

2. Embalming

The second disclosure relates to embalming and the need for prior approval.[15]

> If you selected a funeral that may require 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 below.

The form should leave enough space for you to explain the reason for embalming. You should enter this information on the Statement before giving it to the customer.

3. Cash Advance Items

The third disclosure relates to your charges for your 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:[16]

> We charge you for our services in obtaining: (*specify cash advance items*).

You must place this disclosure in immediate conjunction with (directly next to) the list of itemized cash advance items on your Statement and specify those cash advance items to which the disclosure applies.

You should not put the disclosure on a separate page or elsewhere on the Statement apart from the list of itemized cash advance items. (See the Sample Statement on page 28.)

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 also must answer any other questions about your offerings and prices with any readily available information that reasonably answers the question.[17]

> **Note:** You cannot require callers to give their names, addresses, or phone numbers before you give them the requested information. You can ask callers to identify themselves, but you still must answer their questions even if they refuse to do so. You cannot require consumers to come to the funeral home in person to get price information.

You can use an answering machine or answering service to record incoming calls. However, you must respond to questions from callers on an individual basis.

> **Example:** Your answering machine can have a message telling consumers to call a specified number during business hours for information about prices and offerings. You need to provide the requested information when consumers call during those hours, or, you can have an answering machine or answering service take consumers' names and phone numbers so that you can return the calls at your earliest convenience.

You may have an employee answering your phones who can respond to easier questions regarding your offerings and prices by referring to the printed price lists, but who refers more difficult questions to you. If you are unavailable when the call comes in, the employee can take a message so that you can return the call later.

You do not have to give price and other information after business hours if it is not your normal practice to do so. You can tell consumers who call during non-business hours that you will provide the information during regular business hours. 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.

If you are in the middle of one arrangements conference when another family calls about your offerings, you can take a message and return the call at a later time.

Misrepresentations Prohibited by the Rule

The Funeral Rule prohibits specific misrepresentations in six areas.[18]

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.

> **Example**: Your state law requires either refrigeration or embalming after a certain period of time. If you have refrigeration facilities available, you must give the consumer the option of either refrigeration or embalming.

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 GPL the mandatory embalming disclosure.

> **Note:** You must make this disclosure to all consumers, even if embalming is necessary.

Unless state or local law requires embalming, you may not tell consumers that embalming is required for practical purposes in the following situations:

- when the consumer wants a direct cremation;
- when the consumer wants an immediate burial; or
- when refrigeration is available and the consumer wants a closed-casket funeral with no formal viewing or visitation.

  Example 1: A family wants to arrange a funeral with a formal viewing. The funeral will take place three days after death has occurred on a hot summer day. Your state does not require embalming. You do not have refrigeration facilities. In this situation, you can tell the family that the funeral home requires embalming as a practical necessity to delay decomposition of the remains and to preserve them for viewing. You may not tell the family that the law requires embalming in this case because that is not true.

  Example 2: A family wants to arrange an immediate burial, but does not want to pay for embalming. Embalming is not required by your state law. Before burial takes place, one family member wants to look briefly at the deceased by lifting the lid of the casket. Here, you may not tell the family that embalming is required. The request to see the deceased does not constitute a formal viewing.

In situations like the Example 2, you also cannot require the family to pay for "other preparation of the body," if they decline embalming.

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. (A direct cremation is one that occurs without any formal viewing of the remains or any visitation or ceremony with the body present.) You also must not tell consumers, in the case of direct cremations, that they must buy a casket for any other reason.

If you offer direct cremations, you must make an alternative container available and inform consumers that such containers are available for direct cremations. You do this by including on your GPL the mandatory disclosure about alternative containers discussed on pages 5-6.

An "alternative container" is an unfinished wood box or other non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains. It is made of fiberboard, pressed-wood, composition materials or like materials, with or without an outside covering.

> **Note:** The Rule also prohibits crematories from requiring that a casket be purchased for direct cremation. However, the Rule allows crematories to set standards for the kind of alternative containers that they will accept. For example, a crematory might stipulate that it will accept only rigid containers.

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. You also must tell consumers that state law does not require them to purchase an outer burial container. You satisfy this obligation by including the mandatory disclosure (discussed on pages 6-7) on the Outer Burial Container Price List. The mandatory disclosure about outer burial containers also tells consumers that grave liners are suitable for meeting any cemetery requirement.

You may not tell consumers that a particular cemetery requires an outer burial container, if that is not true. You may want to keep updated rules of local cemeteries to make sure that your information is accurate. If the particular cemetery does require a container, then you should explain this to the family.

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. If you do tell a consumer that he or she must buy a particular item because of any legal, cemetery, or crematory requirement, you must identify and describe the particular requirement in writing on the Statement of Funeral Goods and Services Selected.

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 time. Although the Rule flatly prohibits you from making this representation, the Commission recognizes that it is possible for some funeral goods or services to delay decomposition for a short period.

> **Example:** A family selects a funeral with a viewing. You may explain to the family that embalming will temporarily preserve the body to make it suitable for viewing. But, you cannot tell them that the embalming will preserve the body indefinitely.

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.

Federal law requires you to make all warranty information available to consumers. Therefore, you must allow the family to read any of the manufacturer's warranties. However, you should indicate that these claims are made by the manufacturer and not by you.

> **Example:** Mr. Morton has chosen casket A. You should allow him to read the written warranty that the manufacturer offers, but you must not adopt as your own any statement about preservation or protection that you know to be in violation of the Rule. You may want to inform Mr. Morton that the manufacturer has made certain statements about the product, but that you do not have personal knowledge of the protective value of the merchandise.

6. Cash Advance Items

If you mark up 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. If there ***is*** an added charge, or if you receive and keep a rebate, commission, or trade or volume discount, you must tell the consumer that the price is not the same as your cost. You do this by including the mandatory disclosure (discussed on page 16) on your Statement of Funeral Goods and Services Selected.

The Rule does not prevent you from adding a service charge, nor does it require you to disclose the amount of that charge. However, some states may have laws or regulations that prohibit any mark-up on cash advance items.

7. Other Misrepresentations

Other kinds of misrepresentations, though not specifically prohibited by the Funeral Rule, are also illegal. The FTC Act prohibits deceptive acts or practices. Likewise, the consumer protection laws of most states prohibit deceptive practices.

What Consumers Cannot Be Required to Purchase

You cannot require consumers to buy unwanted or unneeded goods and services to get the items that they do want. Consumers must be able to choose only the goods and services that they want, with certain limited exceptions noted below.[19]

Accordingly, you cannot condition the furnishing of any funeral good or service to a consumer on the purchase of any other funeral good or service ***except for your basic services fee and any items required by law.***[20] You also cannot refuse to serve a family because they do not purchase one particular item (e.g., a casket or embalming) or a combination of items or services from you.

In addition, you cannot include the charge for an optional item of service (such as embalming) in a non-declinable basic services fee. This would have the effect of making the optional item a required purchase for every customer.

The Rule expressly prohibits you from charging any fee as a condition of furnishing any funeral goods or services, other than the fees for:

- 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; and
- the funeral goods and services required to be purchased by law (or by the cemetery or crematory),[21] as identified and explained on the itemized Statement (see page 15).

This means that ***you cannot charge an additional fee or surcharge to consumers who purchase a casket elsewhere.*** Such a fee would not fall within the three categories of allowable charges listed above. This extra "casket handling" fee is simply a hidden penalty for those consumers who exercise the right to purchase a casket from another seller.

Moreover, you cannot alter your prices based upon the particular selections of each customer. Such a practice also would defeat the purpose of the Rule to give people accurate, itemized price information that affords them the opportunity to select the arrangements they want.

Exceptions: The three exceptions to the consumer's general right to choose only the goods and services wanted are:

- the one non-declinable basic services 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.[22] However, you cannot refuse a request simply because you don't like it or don't approve of it.

Example: During July, a family requests that a funeral occur five days after death, but does not want embalming. You don't have refrigeration facilities. Your state law does not require embalming under any circumstances. However, in this situation, you can refuse to provide these arrangements, unless the family buys embalming. You can consider such a request impractical or excessively burdensome.

Note: If a customer requests an item that you do not normally offer, you do not have to comply with the request. However, you are free to do so.

"Free" Items: You cannot list any of the 16 items required to be separately itemized on the GPL as "free" or "no charge." Because you recover the cost of the free item in your other prices on the GPL, the customer may not have the choice of rejecting the charge. However, you can offer items not required to be separately itemized on the General Price List (such as acknowledgment cards) at "no charge," as long as your state or local laws do not prohibit this practice.

Prior Approval for Embalming

You can charge a fee for embalming, ***only in one of the following three circumstances***:[23]

1. State or local law requires embalming under the particular circumstances regardless of any wishes the family might have. If this is the case, you must note on the itemized Statement of Funeral Goods and Services Selected that embalming was performed because of a legal requirement and briefly explain that requirement. (Also see the discussion on page 16.)

   Note: Federal law does not require embalming under any circumstances.

2. You have obtained prior approval for embalming from a family member or other authorized person. (The Rule does not address the issue of who is an "authorized person" to give such approval. That is a matter of state or local law.) You must get ***express*** permission to embalm; it cannot be implied.

   Example: A family states that they want a viewing before burial and asks you to "prepare" the deceased. You must specifically ask the family for permission to embalm and must receive their permission before you embalm the body.

In order to obtain the family's express consent to embalm, you must: 1) specifically ask for and obtain their permission, and 2) not misrepresent when embalming is required.

Example: While making funeral arrangements, you tell a family that they will be charged for embalming, no matter what type of funeral arrangements they choose. If they agree to the funeral arrangements in general, this does not constitute express consent to embalm. In addition, if you charge a family for embalming here, you would be charging a second non-declinable fee that violates the Rule (see page 9).

Note: When an individual makes pre-need arrangements and gives express approval for embalming at that time, you do not need to get any additional approval to embalm at the time of death.

The Rule does not require you to get the permission in writing, as long as it is express approval. Some states, however, may require written authorization.

On the Statement of Funeral Goods and Services Selected, you must explain the ***reason*** that you charged a fee for embalming. The reason may be that the family requested this service. However, if you tell a consumer that embalming is required for a specific reason (e.g., viewing or legal requirement), then you should list this specific reason on the Statement. Simply noting "family consent" for embalming does not convey the reason for embalming, only that the family has consented.

3. All of the following apply:

- You are unable to contact a family member or other authorized person after exercising due diligence. In trying to contact the family, you must exhaust all means known, given the time constraints.

  Note: If refrigeration is available, you may be required to take more steps to contact the family and to obtain embalming authorization than if no refrigeration is available.

- You have no reason to believe that the family does not want embalming performed.

- After embalming the body, you obtain subsequent approval. In seeking approval, you must tell the family that if they select a funeral where embalming would be required (such as a funeral with formal viewing), you will charge a fee, but that you will not charge a fee if they select a funeral where embalming would not be necessary (such as a direct cremation with a memorial service). If the family then ***expressly*** approves embalming or chooses a funeral where embalming is required, you may charge them for the embalming you performed. But, if the family chooses a funeral where no embalming would be required, you cannot charge for the embalming.

Note: The required disclosure regarding embalming on the itemized Statement (see page 16) will let consumers know that they do not have to pay for embalming if you did not get their prior approval.

Recordkeeping

You must keep price lists for at least one year from the date you last distributed them to customers. You also 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 FTC representatives upon request.[24]

Comprehension of Disclosures

You must make all the required disclosures to consumers in a clear and conspicuous manner. Your goal should be to present the information in a reasonably understandable form. In addition, the disclosures must be legible. The print or type must be large and prominent enough that consumers can easily notice and read the information. Finally, your price lists cannot include any information that alters or contradicts the information the Rule requires you to give in those price lists.[25] You can include other information on your price lists if you wish. But, this should not be done in such a way as to confuse or obscure the required information.

State Exemption Provisions

State agencies may apply to the Commission for a statewide exemption from the Funeral Rule.[26] The Commission may grant an exemption if it finds that:

1. There is a state requirement in effect that applies to the same transactions that the Funeral Rule covers; and
2. The state requirement provides an overall level of protection that is as great as, or greater than, the protection provided by the Funeral Rule.

If granted, the exemption will be in effect, as specified by the Commission, for as long as the state administers and enforces effectively the state requirement. An application for state exemption can be filed only by a state government agency. Funeral providers and trade associations cannot file for statewide exemption.

If your state has obtained such an exemption, you only need to comply with your state regulations. If the Commission has not granted your state an exemption, you must comply with all state regulations, as well as the FTC Funeral Rule. You must comply with your state regulations, even if they are more stringent than the Funeral Rule.

For More Information

About the FTC

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair practices in the marketplace and to provide information to businesses to help them comply with the law. For free compliance resources visit the Business Center at business.ftc.gov.

Opportunity to Comment

The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency's responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to www.sba.gov/ombudsman.

Sample Price Lists

The FTC staff provides these sample price lists to help you to understand the Funeral Rule's requirements. You do not have to adopt these sample price lists. They are only examples. In addition, the fact that the FTC staff has developed these price lists does not mean that this format is the only appropriate one. A variety of formats will satisfy the Rule's requirements.

Please read the information in the footnotes. It explains how you can modify the GPL to fit different situations.

Sample 1

ABC FUNERAL HOME
100 Main Street
Yourtown, USA 12345
(123) 456-7890

GENERAL PRICE LIST

These prices are effective as of [date].

The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. However, any funeral arrangements you select will include a charge for our basic services and overhead. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.

Basic Services of Funeral Director and Staff and Overhead . . . . . $_____

Our services include: conducting the arrangements conference; planning the funeral; consulting with family and clergy; shelter of remains; preparing and filing of necessary notices; obtaining necessary authorizations and permits; coordinating with the cemetery, crematory, or other third parties. In addition, this fee includes a proportionate share of our basic overhead costs.

This fee for our basic services and overhead will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)

Embalming. . . . . $_____

[Except in certain special cases]* [E]mbalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial.

Other Preparation of the Body. . . . . $_____

[List individual services and prices]

Transfer of Remains to the Funeral Home (within ___ mile radius) . . . . . $_____

beyond this radius we charge ___ per mile

---

* Delete “[Except in certain special cases]” if state law does not require embalming.

Use of Facilities and Staff For Viewing at the Funeral Home . . . . . $_____

Use of Facilities and Staff For Funeral Ceremony at the Funeral Home . . . . . $_____

Use of Facilities and Staff For Memorial Service at the Funeral Home. . . . . $_____

Use of Equipment and Staff For Graveside Service . . . . . $_____

Hearse . . . . . $_____

Limousine . . . . . $_____

Caskets . . . . . .$_____ to $_____

A complete price list will be provided at the funeral home.

Outer Burial Containers . . . . . .$_____ to $_____

A complete price list will be provided at the funeral home.

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; preparation of remains [including embalming][†], and local transportation.

Receiving Remains from Another Funeral Home . . . . . $_____

Our charge includes: basic services of funeral director and staff; a proportionate share of overhead costs; care of remains; transportation of remains to funeral home and to cemetery or crematory.

Direct Cremation . . . . . .$_____ to $_____

Our charge for a direct cremation (without ceremony) includes: basic services of funeral director and staff; a proportionate share of overhead costs; removal of remains; transportation to crematory; necessary authorizations [and cremation] [°].

If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are a fiberboard container or an unfinished wood box.

A. Direct cremation with container provided by the purchaser . . . . . $_____

B. Direct cremation with a fiberboard container. . . . . $_____

C. Direct cremation with an unfinished wood box . . . . . $_____

Immediate Burial . . . . . .$_____ to $_____

Our charge for an immediate burial (without ceremony) includes: basic services of funeral director and staff; a proportionate share of overhead costs; removal of remains; and local transportation to cemetery.

A. Immediate burial with casket provided by the purchaser . . . . . $_____

B. Immediate burial with alternative container [if offered] . . . . . $_____

C. Immediate burial with cloth covered wood casket . . . . . $_____

[†] Delete "[including embalming]" unless embalming is required by state law or common carrier.

[°] Delete "[and cremation]" if you bill cremation as a cash advance item. See items 1-4: Minimal Services on page 8.

Sample 2

ABC FUNERAL HOME
CASKET PRICE LIST

These prices are effective as of [date].

Alternative Containers:

1. Fiberboard Box . . . . . $_____

2. Plywood Box . . . . . $_____

3. Unfinished Pine Box . . . . . $_____

Caskets:

1. Beige cloth-covered soft-wood
   with beige interior . . . . . $_____

2. Oak stained soft-wood
   with pleated blue crepe interior . . . . . $_____

3. Mahogany finished soft-wood
   with maroon crepe interior . . . . . $_____

4. Solid White Pine
   with eggshell crepe interior . . . . . $_____

5. Solid Mahogany
   with tufted rosetan velvet interior . . . . . $_____

6. Hand finished solid Cherry
   with ivory velvet interior . . . . . $_____

7. 18 gauge rose colored Steel
   with pleated maroon crepe interior (available in a variety of interiors) . . . . . $_____

8. 20 gauge bronze colored Steel
   with blue crepe interior . . . . . $_____

9. Solid Bronze (16 gauge)
   with brushed finish white ivory velvet interior . . . . . $_____

10. Solid Copper (32 oz.) with Sealer (Oval Glass)
    and medium bronze finish with rosetan velvet interior . . . . . $_____

Sample 3

ABC FUNERAL HOME
OUTER BURIAL CONTAINER PRICE LIST

These prices are effective as of [date].

[In most areas of the country]*, [S]tate 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.

1. Concrete Grave Liner . . . . . $_____

2. Acme Reinforced Concrete Vault (lined) . . . . . $_____

3. Acme Reinforced Concrete Vault (stainless steel lined) . . . . . $_____

4. Acme Solid Copper Vault . . . . . $_____

5. Acme Steel Vault (12 gauge) . . . . . $_____

* Delete "[In most areas of the country]" if state law does not require a grave liner or vault.

Sample 4

ABC FUNERAL HOME
STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below.

Deceased: _____

Purchaser: _____

Address: _____

Tel. No. _____

_____ Date of Death

_____ Date of Arrangements

Basic Services of Funeral Director and Staff and Overhead . . . . . $_____

Embalming. . . . . $_____

If you selected a funeral that may require 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 below.

Other Preparation of the Body

1. Cosmetic Work for Viewing . . . . . $_____
2. Washing and Disinfecting Unembalmed Remains. . . . . $_____

Transfer of Remains to the Funeral Home . . . . . $_____

Use of Facilities and Staff For Viewing. . . . . $_____

Use of Facilities and Staff For Funeral Ceremony . . . . . $_____

Use of Facilities and Staff For Memorial Service . . . . . $_____

Use of Equipment and Staff For Graveside Service. . . . . $_____

Hearse . . . . . $_____

Limousine . . . . . $_____

Casket . . . . . $_____

Outer Burial Container . . . . . $_____

Forwarding of Remains to Another Funeral Home. . . . . $_____

Receiving Remains from Another Funeral Home . . . . . $_____

Direct Cremation . . . . . $_____

Immediate Burial . . . . . $_____

CASH ADVANCE ITEMS

We charge you for our services in obtaining: [specify relevant cash advance items].

Cemetery charges . . . . . $_____

Crematory charges . . . . . $_____

Flowers . . . . . $_____

Obituary notice. . . . . $_____

Death certificate. . . . . $_____

Music . . . . . $_____

Total Cash Advance Items $_____

TOTAL COST OF ARRANGEMENTS
(including all services, merchandise, and cash advance items). . . . . $_____

If any legal, cemetery, or crematory requirement has required the purchase of any of the items listed above, we will explain the requirement below:

_____

_____

_____

Reason for Embalming:

_____

Endnotes

[1] Note: Before the 1994 revision, the Rule also required the following disclosure on the GPL:

> 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 or statement describing the funeral goods and services selected. [And if appropriate] We charge you for our services in buying these items.
>
> The Rule no longer requires this disclosure on the GPL. Instead, you must place a shorter version of the disclosure on the Statement of Goods and Services Selected (see pages 15-16). However, you may continue to place this disclosure on your GPL, if you wish.

[2] See Section 453.4(b) (2) (i) (A).

[3] See Section 453.3(a) (2) (ii).

[4] See Section 453.3(b) (2).

[5] See Section 453.2(b) (4) (iii) (C).

[6] See Section 453.2(b) (4) (iii) (A).

[7] See Section 453.2(b) (4) (iii) (B).

[8] See Sections 453.2(b) (4) (ii) - (iii).

[9] See Section 453.2(b) (6).

[10] See Section 453.2(b) (4) (iii) (C).

[11] See Section 453.2(b) (2).

[12] See Section 453.2(b) (3).

[13] See Section 453.2(b) (5).

[14] See Section 453.4(b) (2) (i) (B).

[15] See Section 453.5(b).

[16] See Section 453.3(f) (2).

[17] See Section 453.2(b) (1).

[18] See Section 453.3.

[19] See Section 453.4.

[20] See Section 453.4(b) (1) (i).

[21] See Section 453.4(b) (1) (ii).

[22] See Section 453.4(b) (2) (ii).

[23] See Section 453.5

[24] See Section 453.6.

[25] See Section 453.7.

[26] The Commission's staff has issued guidelines regarding exemption proceedings, which were published in the Federal Register on March 29, 1985. See 50 Fed. Reg. 12,521 (1985).

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