FACTS ABOUT FUNERALS

Consumer Brochure

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Texas Funeral Service Commission
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512-479-5064 (fax)
www.tfsc.texas.gov

TFSC FACTS ABOUT FUNERALS©

A family may take care of all aspects of disposition from death to interment, inurnment, entombment or transporting out of state without the assistance of a funeral director/establishment.

Individuals and establishments must be licensed by the TFSC in order to provide funeral services and goods for compensation.

Licensing Information Available
A person can verify an individual and/or establishment is licensed in the state of Texas by following the "License Search and Verification" link on the TFSC website.

What to Do When a Death Occurs
1. Contact local law enforcement official if the death was unattended
2. A coroner, Justice of the Peace, or attending physician must make a determination of death
3. Locate decedent's letter of direction, prepaid funeral contract, insurance policy and/or will
4. If no direction exists, priority next of kin must determine disposition
5. A Report of Death and a death certificate are legally required upon death

Written Direction for Disposition
Under the law, a person has the right to designate how to dispose of his/her remains. TFSC has a form on its website that outlines the substantive information to be included when providing a written designation to control disposition.

Available Methods of Disposition
Human remains can be buried, entombed, cremated, or donated for scientific study.

Control of Disposition of Decedent's Remains
If the decedent left no written direction for disposition, the following persons, in the order listed, have the right to control disposition and are liable for the reasonable cost of interment:
1. the person designated by the decedent
2. the decedent 's surviving spouse (common-law spouses are recognized in Texas)
3. any one of the decedent 's surviving adult children
4. either one of the decedent's surviving parents
5. any one of the decedent's surviving adult siblings
6. any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent

If the person with the right to control the disposition fails to make final arrangements within six days after receiving notice of the death or within 10 days after the date of death, whichever is earliest, the person is presumed to be unable/unwilling to control disposition and the person's right to control disposition is terminated and passed to the next person on the above priority list.

Death Certificates
By law, a report of death must be made within 24 hours of death and a death certificate must be filed with the state within 10 days of death.

Information Needed for Death Certificate
- Full Name (Maiden, if applicable)
- Date of birth
- Place of birth
- Social security number
- Residence address
- Spouse's name (Maiden if applicable)
- Father's name & Mother's maiden name
- Place of burial or disposition

Funeral Costs
Funeral establishments are required to give consumers current retail price information over the telephone upon request.

Before discussing funeral arrangements, funeral establishments are required to give consumers a General Price List (GPL). This list itemizes the costs of funeral services and merchandise for sale. If not included on the GPL, the funeral home must also provide a Casket Price List, an Outer Burial Container Price List, and an Urn Price List.

These retail prices must specify at least the charges for the following items, if available for purchase through the establishment:

- Forwarding or receiving remains to or from the funeral establishment
- Direct Cremation
- Immediate Burial
- Embalming
- Other Preparation of the Body
- Use of Funeral Establishment and Staff for viewing, funeral ceremony, memorial service and/or graveside service
- Use of hearse and/or limousine
- Caskets and/or outer enclosures if not provided on a separate list
- Filing a claim seeking life insurance proceeds
- Other itemized services provided by the funeral establishment/staff

Price Lists also must include:

- Name, address and phone number of the establishment
- The effective date of the price list
- Notice stating: "You may choose only the items you desire. If you are charged for items that you did not specifically request, we will explain the reason for the charges on the written memorandum. Please note that there may be charges for items such as cemetery fees, flowers and newspaper notices."

Statement of Goods and Services (Purchase Agreement)
A consumer must be given a Statement of Goods and Services at the conclusion of the arrangement conference. The statement must be signed by the funeral director and include:

- Funeral goods/services selected and the prices to be paid for each of them
- Itemized cash advance items with prices given to the extent then known or reasonably ascertainable
- Total cost of the goods and services selected
- Complete description of goods purchased (i.e. casket, urn, outer burial container)

Embalming
Embalming is the use of chemicals, internally and externally, to disinfect and slow body decomposition. Texas law does not require embalming. Most common carriers require a body to be embalmed prior to shipping. The laws of the destination country/state apply.

Because of the deterioration of a body after death, Texas law requires all bodies held for over 24 hours or in transit must be embalmed, refrigerated, or encased in a leak and odor proof container.

By law, a funeral provider must get express permission (either in writing or verbally) to embalm the decedent.

Caskets and Outer Burial Containers
Caskets are constructed from various materials including steel, copper, bronze, and wood. There is no direct relationship between the features of the casket and the preservation of the body.

Caskets and Outer Burial Containers are not required by state law, however, there may be cemetery or mausoleum restrictions regarding caskets and outer burial containers or vaults.

Cemeteries
TFSC does not regulate family cemeteries under 10 acres, city, county, or perpetual care cemeteries.

Cremation
The law requires a cremation container, which is rigid for easy handling and made of combustible materials to be used for all cremations. Embalming and a casket are not required for cremation.

Texas law prohibits cremating any dead human body within 48 hours after death. A Medical Examiner or a Justice of the Peace may waive this time requirement. Both entities are required to have a written policy in place on how a person may request a waiver of the 48 hour time limit.

Cremated remains may be disposed of or kept in a number of ways:

- Scattered on the private property of a consenting land owner
- Interred in a cemetery
- Placed in a niche in a columbarium
- Kept by the family in their home
- Scattered upon public lands or waterways

Solicitation by Funeral Providers
There are legal prohibitions regarding the solicitation by a funeral director at or near the time of death. Solicitation means any direct or indirect contact with the family, next of kin, or one who has custody of a person who is deceased or near death for the purpose of securing the right to provide funeral services or merchandise for the deceased or person near death.

Advertising by Funeral Providers
Consumer protection statutes require all advertising to be factual and clear in content. Any misrepresentations should be reported to the TFSC, the Office of the Attorney General's Consumer Protection Division, or the local Better Business Bureau.

Prepaid Funeral Contracts
Prepaid funeral contracts are governed by Texas Finance Code Chapter 154. Texas law requires sellers of prepaid funeral contracts to have a permit issued by the Texas Department of Banking or be acting as an agent for a licensed permit holder.

Prepaid funeral contracts vary in terms, funding options, and coverage and should, like any other purchase involving a substantial amount of money, be reviewed carefully before execution.

With a prepaid funeral contract, a consumer is entitled to receive all guaranteed items selected on the contract at no additional charge, if the terms of the contract have been met. There may be additional charges for items that are not part of the prepaid contract or those cash advance items purchased as nonguaranteed items.

Permit holders are required to provide an informational brochure discussing prepaid funeral benefits contracts to all potential purchasers. Additional information regarding prepaid funeral contracts can be found at www.prepaidfunerals.texas.gov

Additional questions regarding prepaid funeral contracts may be directed to:

Texas Department of Banking
2601 North Lamar Blvd.
Austin, Texas 78705-4294
(512) 475-1285 / (877) 276-5554
www.dob.texas.gov

Additional questions regarding an insurance policy issued in connection with a prepaid funeral contract may be directed to:

Texas Department of Insurance
Consumer Help Line
P.O. Box 149104
Austin, Texas, 78714-9104
(512) 463-6515 / (800) 252-3439

Complaints Against a Funeral Provider

The TFSC licenses and regulates funeral homes, funeral directors, embalmers, crematories, and certain cemeteries. Anyone who believes an individual or establishment licensed by the TFSC has violated the Commission's governing laws or rules may file a complaint by submitting a completed complaint form to the TFSC.

Complaints should specify the exact nature and circumstances of the complaint. The complainant should include copies of all documents received from the funeral establishment or relevant to the complaint. Allegations are reviewed for a violation of Texas Occupations Code, Chapter 651.

Complaints must be in writing and sent to:

Texas Funeral Service Commission
P. O. Box 12217
Capitol Station
Austin, Texas 78711
Fax: 512-479-5064

Complainants are notified when the complaint is received, every three months until the complaint is resolved and upon resolution.

Other entities a person may contact with complaints:

- Attorney General of Texas, Consumer Protection Division, P.O. Box 12548, Austin, Texas 78711, 512-463-2070
- Local Better Business Bureau
- Local Funeral Consumers Alliance
- Federal Trade Commission, Dallas Regional Office, 1999 Bryan Street, Suite 2150, Dallas, Texas 75201, 1-877-382-4357.

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