



STATE OF ARIZONA  
OFFICE OF THE  
AUDITOR GENERAL

A PERFORMANCE AUDIT  
OF THE

**BOARD OF FUNERAL DIRECTORS  
AND EMBALMERS**

**AUGUST 1983**

A REPORT TO THE  
ARIZONA STATE LEGISLATURE



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August 8, 1983

Members of the Arizona Legislature  
The Honorable Bruce Babbitt, Governor  
Mr. Bryan Webber, President  
State Board of Funeral Directors and Embalmers  
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Phoenix, AZ 85007

Transmitted herewith is a report of the Auditor General, A Performance Audit of the State Board of Funeral Directors and Embalmers. This report is in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. The performance audit was conducted as a part of the Sunset Review set forth in A.R.S. §§41-2351 through 41-2379.

The blue pages present a summary of the report; a response from the State Board of Funeral Directors and Embalmers is found on the yellow pages preceding the appendices.

My staff and I will be pleased to discuss or clarify items in the report.

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Enclosure

OFFICE OF THE AUDITOR GENERAL

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BOARD OF FUNERAL DIRECTORS AND EMBALMERS

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REPORT 83-13

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## SUMMARY

The Office of the Auditor General has conducted a performance audit of the Arizona Board of Funeral Directors and Embalmers in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

The Board of Funeral Directors and Embalmers regulates practitioners and establishments which handle the disposal of human remains. The Board licenses funeral directors and embalmers, registers apprentice embalmers and assistant funeral directors and licenses funeral establishments. Regulation of the funeral industry began in the late 19th century as part of the public health movement. More recently, concern over the high cost of funerals and deceptive practices within the industry has resulted in regulation to protect consumers. In 1981, the Board promulgated rules addressing business practices within the funeral industry. As a result, Arizona is considered a leader among the states in protecting funeral consumers.

### Additional Protection Is Needed for Funeral Consumers (See Pages 13-27)

Although Arizona's funeral regulations are among the strongest in the United States, consumers may still lack adequate information about services and costs prior to making funeral arrangements. The regulations do not provide all information required by the Federal Trade Commission (FTC). Even where Arizona requirements are similar to the FTC regulations, shortcomings limit their effectiveness. Price lists for the various establishments are often not comparable. The rules do not require funeral directors to provide price information by telephone or to provide sufficient casket price information.

The future of State regulation of funeral industry practices in Arizona is also uncertain. Segments of the industry have filed suit challenging the

Board's authority to regulate business practices. Although a Superior Court has ruled in favor of the Board in about half of the issues, other issues, including the validity of the price list regulations, remain undecided. The industry may also appeal the Court's ruling. In addition, the FTC rule on funeral industry practices may supercede Arizona's regulations when it becomes effective in January 1984.

The Legislature should consider amending A.R.S. §32-1301 et seq to clearly authorize the Board to establish regulations to protect funeral consumers. The Legislature should also consider 1) clearly defining a standard format that funeral homes would be required to use for presenting price information, 2) requiring funeral homes to disclose price information by telephone, and 3) requiring that price lists show price ranges for general types of caskets normally offered for sale. The Board could further assist consumers by developing a brochure to inform consumers about funeral laws and regulations, their rights and typical funeral arrangements.

Some Licensing Requirements  
Are Unnecessary (See Pages 29-40)

Some licensing requirements for funeral practitioners and establishments are unnecessary and do not serve the public interest. Public health risks associated with disposal of human remains are minimal. As a result, embalmers do not need to be licensed. For the same reason, funeral directors do not need experience as embalmers to qualify for initial licensure. Several statutory requirements for licensing establishments are also unnecessarily restrictive in that they require unneeded facilities and equipment.

The Legislature should consider reducing unnecessary licensing requirements by deleting 1) all statutory requirements regarding licensing of embalmers and apprentices and certifying assistant funeral directors, 2) the requirement for funeral director embalming experience, and 3) funeral establishment facility requirements. If the Legislature

wishes to continue licensing embalmers, it should consider revising entry requirements to give candidates the option of either a two-year apprenticeship or a combination of one year of apprenticeship and one year of mortuary school. Finally, the Board should promulgate a regulation requiring establishments to specifically designate at least one funeral director as being accountable for all activities at each establishment.

Preneed Statutes Are  
Inadequate (See Pages 41-54)

Arizona law does not sufficiently protect persons who arrange and purchase funerals in advance of death. Consumers who purchase preneed funeral plans do not always receive merchandise or services purchased and risk losing funds. Because current laws are weak, the Board of Funeral Directors and Embalmers can take only limited action in response to these problems. In addition, the statutes unnecessarily limit competition in prearranged funeral sales.

The Legislature can increase protection of consumers who purchase preneed funeral plans by designating the Board as the agency responsible for regulating sales of preneed plans and vesting the Board with full authority to oversee preneed trust funds. In addition, less restrictive trust requirements, combined with appropriate safeguards would increase the availability of preneed funeral plans to the public.

## INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Arizona Board of Funeral Directors and Embalmers in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

The business of funeral directing and embalming in America evolved during the mid-19th century as a merger of two trades: the cabinetmaker who made and sold coffins and the druggist or chemist who developed embalming to preserve remains. The Civil War gave an impetus to embalming. Families who wished to bring their dead home for burial had the bodies embalmed near the battlefield and shipped home via the railroads. America's vast distances frequently necessitate, even today, a delay of several days between death and burial. Embalming was developed in an attempt to preserve the body until the service and burial take place.

Today, the funeral industry is an accepted part of American society. Nationwide, more than 20,000 funeral homes engage in a multibillion dollar business. In Arizona, approximately 127 funeral homes handled more than 17,000 adult burials and cremations during 1982 at an estimated cost of at least \$17 million. The funeral industry in Arizona's major population centers is concentrated. One funeral home handled 24 percent of the funerals in Pima County during 1982; six establishments accounted for 37 percent of the funerals in Maricopa County that same year.

### Public Regulation of the Funeral Industry

State regulation of funeral practitioners began in the late 19th and early 20th centuries. Virginia was the first state to license embalmers in 1894. In Arizona, the Territorial Board of Embalmers was established in 1909 and became the Board of Funeral Directors and Embalmers in 1945. The

Board consists of six members: four license holders and two lay members. Current responsibilities include licensing funeral directors and embalmers, registering apprentice embalmers and assistant funeral directors and licensing funeral establishments. The Board is also responsible for examining candidates for practitioner licenses and investigating complaints. During fiscal year 1981-82 the Board issued or renewed over 1,000 licenses and investigated 41 complaints (Table 1).

TABLE 1  
BOARD OF FUNERAL DIRECTORS AND EMBALMERS ACTIVITIES  
FISCAL YEAR 1981-82

Licenses Issued	<u>New</u>	<u>Renewal</u>	<u>Total</u>
Funeral Director	17	357	374
Embalmer	23	387	410
Establishment	<u>10</u>	<u>117</u>	<u>127</u>
Total Licenses	50	861	911
Registrations			
Assistant Funeral Director	8	10	18
Apprentice Embalmer	<u>39</u>	<u>93</u>	<u>132</u>
Total Registrations	47	103	150
Total Licenses and Registrations	<u>97</u>	<u>964</u>	<u>1,061</u>
Complaints	-	-	44
Investigations	-	-	41

During the 1970s growing concern over industry practices and funeral costs led to a change in the focus of public regulation. The Federal Trade Commission (FTC) conducted an extensive investigation of the funeral industry, identifying a variety of practices which inflated funeral costs and limited consumer choices. As a result, the FTC proposed a series of regulations in 1982 which will require funeral practitioners to provide

consumers with specific information about legal requirements, services available and itemized costs. These regulations become effective in January 1984. The Arizona Board, however, promulgated its own regulations in 1981 which are similar in many respects to the FTC rules. Because of the Board's action, Arizona is considered a leader in protecting funeral consumers.

Personnel and Budget

The Board of Funeral Directors and Embalmers employs no full-time staff. Board members serve part-time and receive per diem reimbursement. The State Boards Administrative Office currently provides one staff member who devotes half-time to Board duties. In addition, the Office of the Attorney General provides a part-time investigator and legal assistance to the Board. The Board is a "90-10" agency and revenues from license fees support Board activities. Table 2 shows actual and estimated budgets for fiscal years 1980-81 through 1983-84.

TABLE 2  
BOARD OF FUNERAL DIRECTORS AND EMBALMERS ANNUAL BUDGETS  
FISCAL YEARS 1980-81 THROUGH 1983-84

	Actual 1980-81	Actual 1981-82	Estimated 1982-83	Appropriated 1983-84
FTE positions	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Revenues:				
Board Fund (90%)	\$43,800	\$45,253	\$54,374	\$55,300
General Fund (10%)	4,900	5,023	6,041	6,200
Total	<u>\$48,700</u>	<u>\$50,276</u>	<u>\$60,415</u>	<u>\$61,500</u>
Expenditures:				
Personal services	\$ 3,700	\$ 4,200	\$ 4,900	\$ 4,900
Employee-related	100	200	100	200
Professional and outside services	19,800	24,100	23,500	25,300
Travel -				
In-State	4,200	2,400	9,000	9,500
Out-of-state	600	-0-	-0-	-0-
Other operating expenses	4,000	5,800	2,900	6,900
Equipment	-0-	2,100	-0-	-0-
Total	<u>\$32,400</u>	<u>\$38,800</u>	<u>\$40,400</u>	<u>\$46,800</u>
End of Year Fund Balance:	<u>\$34,867</u>	<u>\$41,299</u>	<u>\$45,924</u>	<u>\$54,424</u>

Audit Scope and  
Purpose

The purpose of the audit was to evaluate the need for and adequacy of Board of Funeral Directors and Embalmers regulation of funeral practices. Specifically, we examined:

- The extent to which State regulations ensure that consumers have access to adequate information for making decisions about funerals,
- The appropriateness of the licensing requirements for funeral practitioners, and
- The extent to which State law protects purchasers of prearranged funeral plans from misrepresentation.

In addition, we identified several other potential issues which we were unable to address because of time constraints. These issues include the extent of the industry's compliance with statutory and regulatory requirements and the efficiency of Board operations. Further audit work is needed to fully address these issues (see page 55).

The Auditor General and staff express appreciation to the members of the Board of Funeral Directors and Embalmers for their cooperation and assistance during the course of our audit.

SUNSET FACTORS

In accordance with A.R.S. §§41-2351 through 41-2379, the Legislature must consider the following 11 factors to determine, in part, whether to continue or terminate the Board of Funeral Directors and Embalmers.

1. Objective and purpose in establishing the Agency

Although the enabling statutes for the Board of Funeral Directors and Embalmers do not contain an explicit statement of objective and purpose, they do establish clear responsibility to regulate practitioners and establishments. Arizona Revised Statutes (A.R.S.) §32-1305 authorizes the Board to

". . . adopt rules and regulations . . . for the practice of funeral directing and embalming . . . (which) shall be binding upon all funeral directors, embalmers and apprentice embalmers."

In addition, A.R.S. §§32-1321 through 32-1340, 32-1381 and 32-1382 establish specific requirements for obtaining practitioner and establishment licenses. Finally, A.R.S. §§32-1361 through 32-1363 and 32-1367 through 32-1374 define specific practices which must be followed by the funeral industry.

The Legislature has changed the purpose of the Board's regulatory program in recent years. Statutory provisions enacted prior to 1972, dealing primarily with qualifications for entering the profession or establishing a funeral home, reflect public health concerns which originally led to regulation. Since 1972, the Legislature has enacted new statutes which address specific industry practices and show an increasing concern for protecting consumers from financial harm.

Regulations adopted by the Board in 1981 clearly reflect this changing emphasis. Current regulations specify certain practices, such as price lists and casket price ranges, which practitioners must follow. The regulations also prohibit certain deceptive practices. The Board's stated objective and purpose indicates that while public health concerns are important to the Board, consumer protection has also become a major priority.

2. The effectiveness with which the Agency has met its objective and purpose and the efficiency with which it has operated

The Board has established a regulatory program for the funeral industry in Arizona which is among the strongest in the United States. The Board's program requires funeral practitioners to provide consumers price information and to refrain from certain deceptive practices. The program is similar to a Federal regulation proposed by the Federal Trade Commission and may allow Arizona to obtain an exemption from the Federal rule when the rule goes into effect in January 1984. However, the program does not fully protect funeral consumers because the regulations do not ensure that consumers can obtain adequate information about funeral services and costs prior to selecting a mortuary (see pages 13-27).

Due to time constraints we did not evaluate the Board's efficiency of operation. Further audit work is necessary to fully address this factor.

3. The extent to which the Agency has operated in the public interest

The Board of Funeral Directors and Embalmers operates in the public interest by protecting consumers who must make a potentially expensive choice under very difficult circumstances. Board regulations governing funeral industry business practices provide consumers with at least a minimum of information necessary for making funeral arrangements and also prohibit providers from engaging in deceptive

practices which lead to high-cost funerals. Although regulations do not fully protect consumers, the number of complaints has declined since the Board promulgated the regulations and the Board has taken action against several gross violators.

Licensing funeral directors and establishments serves the public interest by contributing to enforcement of consumer protection legislation and regulations. However, licensing and entry requirements for embalmers impose unnecessary costs on practitioners without corresponding public benefits. Medical opinion does not support the public health objective for funeral regulation stated by both the Board and members of the funeral industry. Therefore, deleting licensing requirements for embalmers will remove unnecessary restrictions without harming the public. Statutory requirements that funeral directors have embalming experience and that establishments maintain specific facilities are unnecessary for the same reasons (see pages 27-37).

4. The extent to which rules and regulations promulgated by the Agency are consistent with the legislative mandate

The extent to which Board regulations are consistent with the Board's legislative mandate is currently under litigation. The Board issued new regulations in June 1981 which 1) established investigative, disciplinary and rehearing procedures; 2) established general standards of conduct for licensees; 3) established price list requirements; and 4) established guidelines for embalming. The Board complied with the requirements of the Administrative Procedures Act in promulgating the rules' minimum competence guidelines. The Arizona Funeral Directors Association, however, filed suit against the Board in June 1982, contending that the rules exceeded the Board's authority and violated due process guarantees of the U.S. Constitution. Although the Maricopa County Superior Court upheld much of the Board's authority in June 1983, the Court has not yet decided the validity of the Board's price list regulation. The case may also be appealed.

5. The extent to which the Agency has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public

The Board has encouraged public participation in the development of its rules and has complied with the open meeting law. The public and funeral industry were given opportunity for extensive input when the Board revised its regulations in 1981. The Board has also provided the public with adequate notice and minutes of meetings as required by the Open Meeting Law.

The 1981 revision of Board regulations provided opportunity for public and funeral industry participation. The Board complied with all requirements of the Administrative Procedures Act in promulgating the regulations. The Board notified 150 industry members and concerned citizens, received 44 comments, conducted 2 public hearings and obtained input from an advisory committee composed of public and industry representatives before promulgating final regulations.

The Board appears to have complied with the requirements of the Open Meeting Law. For all regular meetings, telephone conferences and subcommittee meetings from January 1982 through March 1983, the Board provided adequate notice and maintained adequate minutes of the proceedings.

6. The extent to which the Agency has been able to investigate and resolve complaints within its jurisdiction

The Board investigates and resolves most complaints in a timely manner. All but 11 of the 99 complaints filed between January 1980 and December 1982 have been closed. The average time required to handle these complaints was approximately three months. Most of the unresolved cases were filed during 1982 and are still under investigation by the Board. The Board closed most of the complaints (74 percent) it received since 1980 without taking action. These

complaints alleged a wide variety of problems, including unprofessional and unethical conduct, failure to honor prearranged funeral plans, fee disputes and poor embalming. However, the Board found no violation and therefore took no action in these cases.

In cases involving preneed complaints, the Board's inability to act in these cases suggests that it may need additional authority to effectively deal with problems presented by consumers (see pages 39-52).

7. The extent to which the Attorney General or any other applicable agency of State government has the authority to prosecute actions under enabling legislation

A.R.S. §32-1305.01 directs the Attorney General to represent the Board in all legal actions. A.R.S. §32-1368, subsection B makes violation of any of the enabling statutes a Class 2 misdemeanor and §32-1369 authorizes the Board to seek injunctive relief against violators. Thus, full authority is available to enforce the Board's enabling statutes.

However, future enforcement may be uncertain. The courts have not finally decided all issues involved in the legal challenge to the Board's authority to regulate business practices. In addition the FTC rule on funeral industry practices may supercede Arizona's regulation. As a result the Board may be able to enforce regulations for only a limited number of activities (see pages 25-26).

8. The extent to which the Agency has addressed deficiencies in the enabling statutes which prevent it from fulfilling its statutory mandate

The Board proposed legislation in 1980 (Senate Bill 1061) to revise its enabling statutes. The legislation would have strengthened regulation of the funeral industry by vesting the Board with clear

investigative authority, increasing penalties for violations of rules and incorporating the proposed FTC rules into Arizona law. The Legislature did not enact SB 1061. The 1980 Legislature did pass House Bill 2394 which increased penalties in the same amount as SB 1061, expanded the Board's disciplinary power and increased license fees but did not affect the Board's investigative or regulatory authority.

House Bill 2490, introduced in the 1982 legislature, would have strengthened regulation over the sale of prearranged funeral plans. The bill designated the State Banking Department as the responsible agency. Despite Board concern over prearranged funeral sales, the Board felt HB 2490 was too complicated and did not endorse it. The Legislature did not enact the bill.

9. The extent to which changes are necessary in the laws of the Agency to adequately comply with the factors listed in the Sunset Law

Based on our audit work, we recommend the Legislature consider making the following changes in the enabling statutes for the Board of Funeral Directors and Embalmers:

- Amend A.R.S. §32-1301 et seq to clearly authorize the Board to regulate funeral industry business practices (see page 27);
- Amend A.R.S. §32-1301 et seq to 1) define a standard format that funeral homes would be required to use for presenting price information, 2) require funeral homes to disclose price information by telephone, and 3) require that price lists show price ranges for general types of caskets normally offered for sale (see page 27);

- Amend A.R.S. §32-1301 et seq to delete 1) all requirements for licensing embalmers and apprentice embalmers, 2) embalming requirements for funeral director licenses, 3) provisions for registering assistant funeral directors, and 4) facility requirements for funeral establishments (see page 40); and
  - Enact legislation governing the sale of preneed contracts to ensure adequate accountability for funds paid in advance for funerals (see pages 53-54).
10. The extent to which the termination of the Agency would significantly harm the public health, safety or welfare

Terminating the Board and its regulations protecting funeral consumers would increase the public's exposure to deceptive practices and misleading information about funeral services and costs. Lack of such information can result in serious financial harm. Although the Office of the Attorney General could offer protection through the Consumer Fraud Act (A.R.S. §44-1521 et seq) and the FTC could enforce its regulations in Arizona, neither alternative offers the visibility and single state-wide focus of the Board in funeral-related matters. In addition, the Board offers a consumer-industry forum for defining appropriate standards and resolving disputes.

The Board's benefit to the public lies solely in its ability to promulgate consumer protection regulation and enforce standards of conduct within the funeral industry. The Board's authority to do so is now in question in a lawsuit. The Legislature should consider amending A.R.S. §32-1301 et seq to clearly authorize the Board to regulate funeral industry business practices. If the Board loses its authority to regulate funeral business practices, then there would appear to be little public harm in terminating the Board. In fact, the State of Colorado terminated its Mortuary Science Board in 1982.

However, the Colorado legislature did not delete statutes governing business practices and conduct. Enforcement of these statutes now rests with local prosecutors while the attorney general investigates complaints.

11. The extent to which the level of regulation exercised by the Agency is appropriate and whether less or more stringent levels would be appropriate

Board regulations approximate the FTC proposed regulations and thus provide reasonable protection against deceptive and misleading funeral industry practices. However, the Legislature should strengthen regulation to ensure that consumers can obtain information before choosing a mortuary through telephone disclosure (see page 27). Practitioner licensing, on the other hand, is more restrictive in some areas than necessary. Licensing embalmers and requiring funeral directors to have experience as embalmers do not promote consumer protection. Statutory requirements for facilities and equipment also serve to increase costs unnecessarily (see page 40).

Existing regulation of preneed contracts does not provide for adequate accountability and control over funds paid by individuals for prearranged funerals. The Legislature should consider enacting legislation to designate a specific agency to oversee management of these funds, require holders to make annual reports on their receipts and disbursements and clarify the rights and obligations of each party to the preneed contract (see pages 53-54).

## FINDING I

### THE LEGISLATURE SHOULD STRENGTHEN REGULATION OF FUNERAL INDUSTRY BUSINESS PRACTICES TO PROVIDE MORE EFFECTIVE CONSUMER PROTECTION.

Arizona's regulations governing funeral industry practices are stronger than most states but do not fully protect consumers. Funeral industry regulation is needed to promote competition and protect consumers who are vulnerable and often lack the information to make a knowledgeable decision. Existing regulations, however, do not ensure that consumers can obtain meaningful information about services and costs before making funeral arrangements. Moreover, legal challenges to the Arizona regulations and implementation of Federal regulations may limit the authority of the Board of Funeral Directors and Embalmers to ensure adequate consumer protection.

#### Rationale for Licensing

Occupational or professional licensing and regulation seek to prevent significant harm to the public which may result from unrestricted practice of a particular activity. The Council of State Governments has published criteria for assessing the potential for harm in a given occupation. Using these criteria, the State should regulate a particular occupation if

- The unlicensed practice poses a serious risk to the consumer's life, health, safety or economic well-being;
- The users of the service cannot be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services; and

- The benefits of licensing to the public clearly outweigh any potential harmful effects such as prices of services, availability of providers and restrictions on use of personnel.

The criteria establish a balance between the potential harm to the consumer and the impact of the regulation. Thus, licensing may be needed but should be no more restrictive than necessary.

#### Need for Regulation Is to Protect Consumers

The only need for regulating funeral industry practices is to protect consumers by promoting price competition and prohibiting practices that increase funeral costs. Although the original purpose for regulating funeral practices was to protect public health, the disposal of human remains does not generally pose a threat to public health and safety (see pages 30-32 for further detail on the relationship between public health and embalming). However, consumers can suffer substantial financial losses because they lack adequate knowledge about making funeral arrangements and because funeral directors have engaged in deceptive practices. Because of the potential for significant financial harm, the Board promulgated regulations to protect consumers.

Cost and Circumstances of the Funeral Transaction - Arranging a funeral can result in substantial costs to consumers. Funerals are expensive. However, few consumers have experience in making funeral arrangements and the emotional trauma resulting from death can affect the judgment of survivors confronted with this task.

Funerals are a major expenditure, often exceeded during life only by house and automobile purchases. Although definitive data on funeral costs are not available, one funeral director estimates that his average funeral costs about \$1,400. National Funeral Directors Association (NFDA) statistics showed the average cost in the Mountain Region was \$1,780 in 1981. However, NFDA figures only include basic funeral home charges plus

casket cost. Other common expenses include interment receptacles, obituary notices, clergy honoraria, death certificates, cemetery expenses and flowers. The Federal Trade Commission (FTC) estimated that when these additional charges were included, the average cost of the typical "traditional" adult funeral was \$2,360 in 1978.

Despite the high cost of funerals, consumers are often unable to make informed choices about funeral arrangements. The FTC investigated funeral practices over a 10-year period and clearly documented the difficulties faced by consumers. Unlike most ordinary consumer transactions, an individual purchases a funeral out of necessity rather than choice and cannot defer the purchase if not fully satisfied. Most persons arranging funerals have little or no prior experience in making arrangements. Consumers must make these decisions under extreme time pressure. The consumer who has not made arrangements beforehand is severely hampered in seeking information after a death occurs. According to one consumer, her family was forced to make a costly decision in a short time with adverse results.

#### Case 1

The survivors of a man who died in a Phoenix hospital at 11:00 p.m. learned that they had to remove the body within a few hours. The family selected a mortuary from the yellow pages and hearing nothing adverse from the hospital staff sent the body to the mortuary. However, the prices quoted the family for a "bare necessities" funeral came to over \$4,600. After the family complained to a local media outlet, the funeral home offered a \$1,145 refund.

Survivors are also likely to suffer from emotional trauma and guilt. As a result, they may be highly suggestible. The trauma of death--one of "the most intense of all human experiences"--often limits the survivors' abilities to make considered judgements about funeral arrangements. Guilt may also lead survivors to purchase a more expensive funeral than they might otherwise wish. Thus, the funeral transaction meets several of the basic requirements for regulation: funerals can involve high costs in an environment where the consumer is at a disadvantage in dealing with the funeral director. As a result of its investigation, the FTC concluded:

"Together, the emotional trauma of bereavement, the lack of information and the time pressures place the consumer at an enormous disadvantage in making funeral arrangements. These conditions mean that the funeral consumer lacks much of the information and freedom of choice available in most other consumer transactions. . . ."

Business Practices - Business practices and sales techniques within the funeral industry may also place the consumer at a disadvantage. Prior to 1981, Arizona regulations did not 1) require funeral directors to provide price lists to consumers or 2) prohibit specific practices such as misrepresenting legal requirements for caskets or embalming. As a result, consumers often made costly decisions without realizing it.

#### Case 2

A clergyman collected information showing that one funeral home charged substantially different prices for the same casket during a six-month period in 1978 and 1979. The establishment sold a casket with a wholesale cost between \$60 and \$66 at prices ranging from \$200 to \$795. The funeral home sold two cremation containers wholesaling for \$10 on the same day, one for \$50 and the other for \$100.

### Case 3

According to a complaint filed with the Board, a family arranging a cremation purchased a casket after the funeral director told the widow that State law required caskets for cremation. Arizona law does not require caskets for cremation. Thus, the family was misled into spending \$230 for an unneeded casket. A subsequent Board investigation resulted in the funeral home reimbursing the family for the casket cost.

In both instances consumers lacked specific information which would have enabled them to evaluate prices or statements made by the funeral director. In another case a mourner reported that a family was harassed by a funeral director.

### Case 4

A family made arrangements with a funeral home for services, agreeing to pay the balance before the funeral. During the rosary service the funeral director interrupted the service to demand immediate payment in full, threatening to stop the service. Although no one had sufficient cash, one of the mourners paid by credit card.

In 1981 the Board of Funeral Directors and Embalmers promulgated regulations to protect consumers from practices such as these. The requirement that funeral directors disclose prices (R4-12-303) seeks to provide consumers with specific information about costs. The regulations also prohibit a variety of deceptive practices including making false

statements about legal requirements for caskets (R4-12-302). In addition, the regulations require practitioners to refrain from conduct which causes or results in disrespect for the deceased, disruption of the funeral services or injury to the family (R4-12-301). An FTC staff attorney describes Arizona as ". . . one of the very few states that has enacted the type of provisions . . . necessary to protect consumers."

However, the Arizona regulations have not eliminated all problems. Some establishments fail to comply with specific requirements of the regulations.

#### Case 5

According to one family member, the funeral home where her family arranged a funeral in May 1983 did not provide a price list to the family as required by regulation. The family paid approximately \$4,000 for the funeral. Although the individual feels that her family was overcharged, no formal complaint was made in order to avoid further trauma.

Although the Board regulations increase the information available to consumers, noncompliance by some funeral homes means that consumers may lack essential information and continue to be subject to misleading practices. Further audit work is needed, however, to determine the extent of such noncompliance within the Arizona funeral industry.

#### Regulations Do Not Ensure Adequate Information for Consumers

Consumers in Arizona may still lack adequate information about services and costs prior to making funeral arrangements even if establishments comply fully with Board regulations. The regulations do not provide all

information recommended by the FTC. In addition, even where Arizona requirements are similar to the FTC regulations, shortcomings limit their effectiveness. Price lists for the various establishments are often not comparable. The rules do not require funeral directors to provide price information over the telephone, and funeral directors are not required to provide sufficient information regarding casket prices. The Board could increase the information available to consumers by publishing a consumer brochure.

Arizona Regulations vs. FTC - Although Arizona regulations are among the strongest in the nation, they do not address all of the areas covered by the FTC rule. Figure 1 compares the key provisions of the FTC rule to Arizona's regulations and statutes. The major differences are that Arizona does not require: 1) telephone disclosure, 2) casket and outer container price lists, or 3) some of the disclosure statements by which the FTC rule seeks to inform consumers about services and merchandise. In addition, the FTC rule requires funeral directors offering direct cremation services to make containers available for cremation. Arizona's regulations do not address this matter.

Arizona's regulations provide consumers with less information than would be available under the FTC rule. Funeral homes in Arizona currently need not provide price information by telephone to consumers. Moreover, disclosure statements about legal and other funeral requirements are less extensive under Arizona statutes and regulations than under the FTC rule. The FTC rule requires that funeral homes specifically disclose on their price lists that embalming is not always required, caskets are not necessary for direct cremation and outer burial containers are usually not required. Although A.R.S. §32-1373.B. requires funeral homes to disclose

on their memorandums of services that Arizona law does not require a casket except in certain circumstances, Arizona requirements lack the affirmative disclosure about the other legal requirements called for by the FTC. Instead, Board regulations (R4-12-302) prohibit practitioners from making false or misleading statements about any legal requirements.

Price List Format - Although price disclosure is a key element of Board regulation, consumers may find it difficult to make meaningful comparisons of funeral costs. Price list formats vary among funeral homes. Establishments use different categories of services and differ in the way they present their prices.

Regulation R4-12-303 requires that practitioners provide ". . . a written or printed price list . . . before such licensee offers or shows any funeral merchandise. . . ." The regulation identifies seven individual items whose prices must be shown separately and defines the components of some of the items. When the price list regulation became effective in 1981, the Board developed a suggested format and standardized categories for use by funeral homes (see Appendix I).

However, funeral homes use different categories of services in their price lists that render comparisons difficult to make. For example, the regulation requires that funeral homes indicate prices for embalming. Two of five price lists we reviewed list a single price which includes embalming, hair care, cosmetics and placing remains in the casket. Three other funeral homes list separate prices for embalming and other care. Similarly, funeral homes vary in their listings of charges for removing remains: two show a single cost for removals within the Phoenix area, two others have variable costs depending on location and time of day.

FIGURE 1

COMPARISON OF PROPOSED FTC FUNERAL RULE WITH ARIZONA REQUIREMENTS

<u>FTC Requirement</u>	<u>Covered by Arizona Regulations or Statutes</u>
Requires provision of specific price information	
1. Telephone disclosure	No
2. Casket price list	*
3. Outer container price list	No
4. General price list	Yes
5. Written, itemized statement of goods and services	Yes
Prohibits misrepresentations about needs for services or merchandise	
1. Embalming	Yes
Disclosure statement**	No
2. Casket for cremation	Yes
Disclosure statement**	Yes
3. Outer container	Yes
Disclosure statement**	Yes
4. Legal or cemetery requirements	Yes
Disclosure statement**	No
5. Preservation or protective value	Yes
6. Cash advance requirements	Yes
Disclosure statement**	No
Prohibits required purchases	
1. Casket for cremation (other than unfinished wood box)	Yes
2. Provide inexpensive container as alternative	No
3. Other purchases	No
Disclosure statement**	No

\* Regulation R4-12-303, Paragraph A, Subsection 1 requires funeral directors to show the price range of caskets offered for sale on their price lists. A.R.S. §32-1372 requires prices on individual caskets on display at the funeral home. In contrast the FTC rule requires funeral homes to maintain a list showing prices of all caskets normally offered for sale or to use other formats to show this information. If the funeral director uses a list, he must provide the list to all persons who inquire in person about casket prices.

\*\* Disclosure statements specifically inform consumers about legal or other requirements for funeral services or merchandise or the value of such services or merchandise. For example, a requirement for a disclosure statement regarding the need for caskets for cremation would require a funeral director to include on their general price list an affirmative disclosure that a casket is not needed and that alternative containers are available for cremation.

Lack of comparability also extends to price list appearance. One establishment presents customers with a brochure that shows prices charged for seven basic services plus pictures and prices of caskets in several price ranges. Another establishment uses a six-page price list showing charges for over 25 separate services and the price range of caskets. Although a diligent consumer could assemble cost comparisons using these lists, the limited time available in most cases and the emotional difficulty of arranging funeral services means that consumers may be unable to effectively use information presented in dissimilar formats.

To ensure that customers can reasonably compare funeral home prices, the Board's Attorney General representative has noted that 1) the Board needs clear statutory authority to require that funeral homes present price information using a standard format, and 2) price list items must be more carefully defined in law. Lacking such authority and clear definition, the Board will be unable to promote comparability of funeral home price lists.

Telephone Disclosure - A second shortcoming of the Arizona regulations is that practitioners are not required to provide price information by telephone before the family selects a funeral home. The FTC rule would require telephone price disclosure. The Arizona regulations do not require telephone disclosure.\* Being able to obtain price information before selecting a mortuary provides the consumer a convenient means for comparing prices and available services before the mortuary takes possession of the body. Given the short time often available to perform this task, the telephone may be the only means by which some consumers can make such comparisons. Further, according to the FTC, once a mortuary

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\* The president of the Arizona Funeral Directors Association told Auditor General staff that his establishment provides price information by telephone. In addition, Auditor General staff called four funeral homes whose owners have challenged the Board regulations to obtain price information on services and a specific casket model. All provided price information. Even if prices are available by telephone, however, the lack of comparability among price formats discussed above may render the information useless.

takes possession of a body the next of kin are usually reluctant to move the body. As a result, a family which chooses a funeral home without knowledge of prices may be unable to arrange services at a desired cost.

Casket Prices - Although current regulations and statutes require disclosure of casket prices, the information available to consumers is limited. The price list regulation only requires establishments to provide the price range of caskets. Consumers thus lack knowledge of individual prices and selection before selecting a mortuary.

Differences in casket prices can result in higher prices to consumers. The casket is the only real variable in a typical funeral and can be a major expense. One funeral home visited by Auditor General staff claimed to mark up caskets 20 percent over wholesale cost while another reported marking up caskets as much as 300 percent. As a result, casket costs can vary among funeral homes. For example, Auditor General staff found one establishment selling a metal casket for \$2,600 that was comparable to one sold by another funeral home for \$270. The least expensive container at one funeral home was a wooden box selling for \$437. Another funeral home sold its least expensive container for \$54. Thus, consumers who investigate casket prices may realize substantial savings.

Arizona regulations and statutes do not ensure that consumers have sufficient information to compare casket prices, particularly if they inquire by telephone. Current regulations (R4-12-303) require only that the price range of caskets be shown on price lists. A.R.S. §32-1372 requires establishments to conspicuously display casket prices on each unit.\* These requirements do not provide a consumer with meaningful

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\* Even when consumers examine caskets at a funeral home, however, they may not obtain prices. During a visit, Auditor General staff found that one funeral home hid casket prices under the pillows despite the legal requirement to conspicuously display prices.

information on casket prices unless the consumer actually visits the funeral home. For example, a consumer calling the two establishments described above would have no way to determine that the \$270 casket and \$2,600 casket are comparable in quality.

The proposed FTC rule seeks to increase consumer information about casket prices by requiring funeral homes to show individual prices for caskets normally available for sale which do not require special ordering. The prices can be displayed in several ways: on the general price list, on a separate list or by notebooks or other formats. The FTC rule also allows funeral homes to show casket price ranges on the general price list with a statement that complete price information is available at the funeral home.

Board members and the Board's assistant Attorney General believe the FTC requirement for individual casket prices may actually prove confusing to the consumer. Due to the different brands of caskets available, varying model numbers and constantly changing stock, consumers would have a limited ability to sort and compare all the detail they would be presented. They suggest a better alternative is to require that price lists show price ranges for the general types of caskets sold (e.g., containers, cloth-covered wood, metal, metal sealing and polished wood). Such price information, when combined with current requirements to display casket prices, would provide consumers sufficient information for making informed choices but would do so without requiring unnecessary detail.

Consumer Information Brochure - Because most consumers lack experience in arranging funerals and available information often does not allow for meaningful comparisons among funeral homes, the Board should consider publishing a consumer information brochure. Consumers' unfamiliarity with funerals often means that they are unaware of the options available to them or their rights to select funeral arrangements compatible with their desires and finances. The differences among funeral home price lists may pose difficulties to families trying to compare funeral prices.

Other Arizona regulatory agencies provide consumer information. The Department of Real Estate publishes two pamphlets informing consumers of the potential hazards and their rights in purchasing land. The Department of Insurance occasionally publishes comparisons which show the differences in cost among insurance companies for typical insurance policies.

An information brochure about funerals could provide similar assistance to funeral consumers by 1) informing them about legal requirements for funerals, 2) describing consumer rights in funeral arrangements, and 3) detailing the basic components of typical funeral services. Providing such information will allow consumers to become familiar with the funeral transaction before dealing with funeral homes and will allow consumers to evaluate information received from the establishments.

#### Future of Funeral Regulation is Uncertain

The future of Board regulation of funeral industry practices in Arizona is uncertain. Segments of the industry have filed suit challenging the Board's authority to regulate business practices. The FTC rule on funeral industry practices may also supercede Arizona's regulations.

The funeral industry maintains that the Board lacks statutory authority to issue consumer protection regulations. Several mortuaries, licensees and the Arizona Funeral Directors Association (AFDA) have filed a lawsuit challenging the validity of the Board's regulations. The suit alleges that 1) State law authorizes the Board to regulate only the practices of funeral directing and embalming and, therefore, 2) the Board lacks the authority to regulate business and ethical practices of the funeral industry. The Attorney General reviewed the regulations prior to promulgation and responded to the lawsuit by arguing that the Board does have sufficient authority to regulate funeral industry business practices.

The case is still in the courts. In a June 10, 1983, ruling the Maricopa County Superior Court affirmed the validity of rules and deceptive practices, general funeral service requirements and trust fund

requirements for prearranged funeral plans. The ruling disposes of about half of the issues in the funeral directors' suit. However, the court did not rule on the Board's price list requirements. Moreover, the Superior Court decision may be appealed. If the Court finds the price list requirements to be invalid or if AFDA ultimately succeeds in its challenge, Arizona consumers will have to depend on the FTC regulations to deter abuses. Because protecting consumers from the financial consequences of deceptive practices is the primary purpose for regulating the funeral industry, the Legislature should clearly authorize the Board to promulgate consumer protection regulations.

The FTC rule on funeral practices may also limit Board regulatory authority when it becomes effective in January 1984. The rule allows states to seek exemptions from its provisions if state regulations are equal. Although Arizona's regulations are strong, they do not address two critical areas covered by the FTC: telephone price disclosure and casket price lists. As a result, the Board may lose its authority to enforce its regulations for these business practices. Although Arizona consumers would be able to complain to the FTC about these practices, the FTC will have nationwide jurisdiction and is not as likely to be as effective in resolving problems as an agency concerned solely with Arizona.

#### CONCLUSION

The Arizona Board of Funeral Directors and Embalmers provides needed protection to consumers through its rules and regulations requiring that licensees disclose price information and refrain from deceptive practices. However, the regulations do not ensure that consumers can obtain all relevant information before making decisions on mortuaries or arrangements. As a result, the Board may lose its authority to enforce its regulations on business practices when the FTC rule becomes effective. The Board may also use its authority to regulate these practices if the industry lawsuit is ultimately successful.

## RECOMMENDATIONS

1. The Legislature should consider amending A.R.S. §32-1301 et seq to clearly authorize the Board of Funeral Directors and Embalmers to establish regulations to protect funeral consumers.
  
2. The Legislature should further strengthen regulation of funeral business practices by
  - a. Requiring funeral homes to use a standardized format for price lists and define the price list items,
  - b. Requiring telephone disclosure of prices, and
  - c. Requiring that price lists show price ranges for the general types of caskets normally available for sale.
  
3. The Board should develop a brochure to inform consumers about funeral laws and regulations, consumer rights and typical funeral arrangements.

## FINDING II

### SOME LICENSING REQUIREMENTS FOR FUNERAL PRACTITIONERS AND ESTABLISHMENTS ARE UNNECESSARY AND ANTICOMPETITIVE.

Some Board licensing requirements for funeral practitioners and establishments are unnecessary and do not serve the public interest. Because dead bodies pose minimal public health risks, embalmers do not need to be licensed. For the same reason requirements for funeral directors should be changed to reflect the need for consumer protection rather than public health. Several establishment licensing requirements are also unnecessarily restrictive. Rather than serving the public, these requirements shield the funeral industry from competition which could benefit consumers.

Currently, the Board of Funeral Directors and Embalmers licenses both embalmers and funeral directors. Funeral directors must practice as a licensed embalmer to qualify for licensure. Although most funeral directors in Arizona are also licensed embalmers, individuals need not maintain an embalming license after initial licensure as a funeral director. These licensing requirements are based largely on public health concerns which were prevalent in the late 19th century. Representatives of the funeral industry strongly believe that embalming is important to protect the public by preventing the spread of infectious disease caused by dead bodies.

#### Licensing Embalmers Is Unnecessary

Continued licensing of embalmers is not necessary. Public health concerns which were once used to justify licensure are not valid because dead bodies pose little or no risk to the general public. Moreover, embalmers work under the supervision of licensed funeral directors and create no significant economic risk to funeral consumers. The few public complaints and Board actions taken involving embalmers do not indicate that dead

bodies are a threat to public health. Further, even if embalmer licensing is continued, the existing entry requirements appear to be overly restrictive.

Embalming, as generally defined, entails restoring a body to a lifelike appearance through injection of chemicals, cleansing and application of cosmetic techniques. Embalming provides only temporary preservation of the body and is usually performed to allow a family the option of viewing the body for a short period prior to interment.\* Although the process requires technical skill and knowledge, Arizona law does not require apprentice embalmers to have any technical training or education prior to beginning their apprenticeships.

Public Health Risks Are Minimal - Although regulation of embalming began in the late 19th century in response to public health concerns, current medical opinion indicates that dead bodies do not represent a real health threat. Therefore, embalming has little value as a health measure. For this reason, Arizona health regulations do not require embalming in most cases and allow refrigeration as a means of preservation.

Embalming is not essential to protect public health. An official of the U.S. Public Health Service, Center for Disease Control (CDC) told us that his experience provided no evidence that embalming serves a public health function. He added that pathogens in the human body are highly sensitive to their host environment and cease reproducing if the body temperature fluctuates even more than a few degrees from normal. He described embalming as a cosmetic procedure.

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\* Viewing is also possible without embalming by preserving the body through refrigeration. Arizona law does not require embalming.

Medical experts in Arizona have voiced similar opinions about the lack of danger from dead bodies. One medical examiner noted that dead bodies pose less hazard than live ones that cough or sneeze. He further noted that Europe (where embalming is not commonly practiced) would be depopulated if the health claims of the funeral industry were true. A forensic pathologist at the University of Arizona also told us that dead bodies are of little danger to the living. He said that while there is some possible hazard, it is not likely and is limited to persons handling the body.\* The pathologist described embalming as cosmetic rather than essential to public health.

Even in cases involving communicable disease, the need for embalming is questionable. The Federal Trade Commission report on the funeral industry quoted one health official who stated:

". . . embalming serves no useful purpose in preventing the transmission of communicable disease. In those few cases where a person dies of a highly infectious disease, a far better procedure would be to wrap and securely seal the body in heavy plastic sheeting before removing it from the place where death occurred."

The Department of Health Services (DHS), which is responsible for regulating the disposal of dead bodies, is also reconsidering the need for embalming in cases where death occurs from communicable disease. DHS has promulgated regulations governing the general preservation of bodies (R9-19-310), preservation after death caused by certain diseases (R9-19-311) and disposition of bodies (R9-19-312). With the exception of death from certain communicable diseases, the regulations do not require

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\* Licensure does not even appear to be necessary to protect these people. There are other persons who are unlicensed who regularly handle dead bodies and who do so using reasonable precautions. An example of such persons is morgue attendants.

embalming. However, in a recent memo, one department official proposed changing the requirement for embalming such bodies to "disinfection and preservation." Thus, embalming is not essential for protecting public health because dead bodies pose minimal health risks which can be addressed in other ways.

Embalmers Pose Little Danger - Embalmers, furthermore, pose no significant threat to the public. They typically work under the direction of licensed funeral directors and do not independently arrange funerals or sell merchandise--activities which involve the greatest potential for economic harm. Further, persons can and do embalm bodies before receiving formal training.

As noted in Finding I (see pages 13-18), the business aspects of the funeral transaction have the greatest potential for public harm. The worst harm an embalmer can cause is to prepare a body poorly. Friends or relatives of the deceased may suffer emotional or psychological distress if the body is improperly prepared. However, the relatively low incidence of complaints about poor embalming suggests that this occurs infrequently and does not create sufficient harm to warrant Arizona's restrictive licensing requirements.

Even the risk of poor preparation is minimal. Embalmers typically work under the direction of licensed funeral directors. Funeral directors, for example, may review embalming reports which detail the condition of the body and what specifically was done during the embalming process. In addition, directors may visually inspect bodies after embalming to determine if the work is adequate. If the funeral director is not satisfied, the embalmer may perform additional work. If the work continues to be unsatisfactory, the funeral director has the option of firing the embalmer. Moreover, the funeral establishment that sells embalming and other funeral services can be held responsible for the quality of services rendered. In a recent New York decision, for example, a \$35,000 judgment was entered against a funeral director because an embalmer improperly prepared a body.

Arizona requirements for apprentice embalmers also reflect the limited harm that embalmers may cause. A.R.S. §32-1326 requires only that apprentice embalmers be high school graduates and be endorsed by the apprentice's employer. Board regulation R4-12-311 provides that apprentices can embalm without direct supervision after completing six months of their apprenticeships and embalming ten bodies. (Currently, an apprentice embalmer who has not attended mortuary school is working in an Ajo funeral home under the supervision of a licensee in Phoenix.) Further, apprentices in Arizona typically embalm at least 25 bodies prior to attending mortuary school. Thus, unlicensed apprentices may regularly embalm bodies in Arizona.

Lack of Complaints - The low number of consumer complaints and lack of Board action involving embalmers, further demonstrates the minimal potential harm from embalming. For the 3-year period 1980 through 1982, the Board received 99 complaints from the public, 6 of which involved improper preparation of the bodies. None of the complaints alleged that the poorly embalmed body posed any health risks. Rather, complainants were concerned about the bodies' appearances and, in one case, possible failure to embalm the body. The Board closed four of these cases and took action in only one of them. In the one case where the Board acted, it fined the responsible funeral director for allowing an unlicensed embalmer to embalm the body. (The embalmer had been licensed in another state and had applied for a reciprocal license in Arizona but was not licensed at the time. The Board subsequently licensed the individual.) The Board is considering action in one of the pending cases, but the violations involve failure to provide a price list and written contract to the consumer rather than any problems with the embalming.

The only case in recent years in which the Board took action for poor embalming occurred in 1977. In this case the Board suspended the apprentice embalmer's certificate of registration for nine months. The Board also suspended two licenses held by the person who supervised this apprentice embalmer. The supervisor's funeral director license was suspended for 18 months and his embalmer license for 24 months. In addition, the Board suspended the establishment license for 90 days.

Despite these actions, complaints about embalming are relatively infrequent and do not indicate that dead bodies pose a threat to public health.

Restrictive Entry Requirements - Entry requirements in Arizona, moreover, are more restrictive than in most other states and result in high costs to persons entering the practice. To qualify for an embalming license in Arizona a candidate must serve a 2-year apprenticeship, embalm 25 bodies and graduate from an accredited mortuary school. Most states require only a one-year apprenticeship in addition to school. The need for mortuary school is also questionable. Most apprentice embalmers have embalmed 25 bodies before attending school. Two states require no schooling at all. Colorado has completely deregulated the profession. Hawaii offers candidates the option of a one-year apprenticeship plus one year of school or longer apprenticeships with no schooling.\* Arizona's requirements mean that to become an embalmer, a candidate must spend two years as an apprentice and pay up to \$3,000 for a year of mortuary school.

The Board argues that embalmers should be licensed because all responsibility should not rest on the funeral director and that the Board needs revenue generated through embalming licensure.\*\* However, the potential for public harm caused by embalmers is not sufficient to justify State regulation. In most businesses, managers and supervisors are responsible for subordinate employees. Loss of revenues, on the other hand, can be addressed through an alternative fee structure.

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\* Hawaii requires a two-year apprenticeship for high school graduates or a five-year apprenticeship for persons who have not completed high school.

\*\* The Board obtains approximately \$13,500 in revenue annually from approximately 450 embalmers who each pay a \$30 renewal fee.

Requirements for Funeral Directors  
Should Reflect Need for  
Consumer Protection

Although licensing funeral directors is a reasonable means of ensuring that practitioners comply with consumer protection statutes and regulations, the requirement that candidates be licensed embalmers to qualify for initial licensure as a funeral director is unnecessary. Funeral directors do not need embalming experience to perform their duties nor to supervise adequately the funeral home personnel. However, funeral directors should be specifically responsible for the performance and conduct of all employees.

No Need for Embalming Experience - The primary harm in arranging funerals results from deceptive or misleading practices used to increase funeral costs. Continued licensing of funeral directors ensures that someone in each funeral establishment is responsible for the conduct of subordinates.

However, funeral directors do not need to be embalmers to provide adequate supervision. Funeral directing typically includes arranging and supervising funeral services as well as selling caskets and other merchandise. The greatest potential for harm occurs in this latter activity. Although funeral directors may also embalm bodies, their primary function is to meet with families to make arrangements. Experience as an embalmer does not ensure competence in these activities or guarantee that all employees comply with consumer protection laws and regulations.

In most states where the requirement for dual licensure has been challenged, the courts have held that such requirements are not justified and are invalid.\* In Gholson v. Engle (138 N.E.2d 508, 1956), for example, the Illinois Supreme Court held that the requirement that funeral directors be embalmers violated the Illinois Constitution. In its decision, the Court stated that neither public health considerations nor the responsibility to supervise embalmers justified the requirement:

"The record does not, in our opinion, establish that public health considerations justify the requirement that a funeral director be a licensed embalmer. The funeral director is concerned primarily with the amenities of the funeral service. Proper performance of his other functions, such as removing and dressing the body, ascertaining the cause of death, and inspecting the body while it is in the coffin, does not require a year of college, nine months at an embalming school and a year's service as an apprentice embalmer. Nor are these qualifications necessary in order that he may effectively supervise the work of the embalmer. Specialized training is not required in order to recognize the conditions that require further work on the part of the embalmer."

Embalming primarily serves a cosmetic purpose which funeral directors can adequately assess through visual inspection. Specialized knowledge of embalming is not necessary to assess the quality of an embalmer's work. Moreover, funeral directors have an economic and professional interest in ensuring that their embalmers are qualified and capable. As the responsible individual, a funeral director can ensure embalmers' qualifica-

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\* See Cleere v. Bullock, 361 P.2d 616 (Colo. 1961); Gholson, v. Engle, 138 N.E.2d 508 (Ill. 1956); Kemplinger v. Whyte, 188 N.W. 607 (Wis. 1922); State v. Rice, 80 A. 1026 (Md. 1911); People v. Ringe, 90 N.E. 451 (N.Y. 1910); Wyeth v. Thomas, 86 N.E. 925 (Mass. 1909). (Cases cited in Florida State University Law Review, Vol. 5, (Summer 1977) pg. 414, note 199) One of the exceptions is an Arizona case, McKinney v. Reilly, 96 Arizona 176, 393 P.2d 268 (1964) in which the Arizona Supreme Court upheld the Board's decision to deny a license to an out-of-state funeral director who had 25 years experience but was not a licensed embalmer.

tions by hiring only mortuary school graduates or carefully checking references and experience--procedures one normally expects employers to follow in other business settings. However, current licensing requirements impose substantial costs on persons wishing to become funeral directors because candidates must first qualify as embalmers. As noted in the previous section, meeting the requirements to become an embalmer can entail substantial time and cost, thus posing an unnecessary barrier to persons wishing to become funeral directors.

Continued Licensing Needed - Although funeral directors do not need experience as embalmers, the Board should continue to license funeral directors. Licensing funeral directors allows the Board to hold an individual responsible at each funeral establishment for its operation. Focusing responsibility on the funeral director in this way eliminates the need for statutes to license subordinate employees, including embalmers or assistant funeral directors.\* Instead, each funeral director would be free to assign duties to any employee capable of performing the duties in compliance with Board regulations and to the funeral director's satisfaction.

Since funeral transactions create major potential for economic harm, however, licensed funeral directors should be clearly responsible for ensuring that all personnel and transactions comply with applicable statutes and Board regulations.\*\* One way to achieve this objective would

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\* A.R.S. §32-1332 allows qualified embalmers to become certified as assistant funeral directors upon recommendation of the funeral director for whom they work and payment of a \$40 fee. No examination is required. The assistant funeral director license is usually held by a recently licensed embalmer who wishes to practice funeral directing. However, certification as an assistant funeral director is not required for licensure as a funeral director.

\*\* Current statutes and regulations allow unlicensed employees to make funeral arrangements and draw up contracts. A.R.S. §32-1381 requires that a specific funeral director be identified as responsible for each licensed establishment.

be for the Board to promulgate a regulation that specifically holds the funeral director designated under A.R.S. §32-1381 responsible for all activities and transactions within the establishment.

Establishment Requirements  
Are too Restrictive

Statutory requirements for funeral establishments are too restrictive. Licensing establishments provides another assurance that funeral home personnel comply with Board regulations, particularly where owners themselves are not licensed funeral directors. However, current requirements that funeral homes maintain specific facilities and equipment are not necessary to protect the public and can unnecessarily increase costs of maintaining an establishment.

A.R.S. §32-1338 requires every funeral establishment to maintain specific facilities and equipment. In particular, each establishment must have:

- A chapel for conducting funeral services;
- A preparation room with sanitary flooring, drainage and ventilation, equipped with instruments and supplies necessary for the preparation and embalming of dead human bodies for burial or transportation;
- A display room for funeral caskets and shipping cases; and
- A hearse or funeral coach properly equipped for the purpose and kept in a sanitary and professional manner.

Enacted in 1945, these requirements ensure that funeral homes have all equipment thought necessary for providing safe and healthful "traditional" funerals. A "traditional" funeral usually involves embalming the body, viewing and services conducted with the body present. These facilities are not needed, however, to provide low-cost services such as direct cremation

or direct interment. In recent years, these nontraditional methods of disposing of bodies, which do not require embalming or purchase of a casket, have become more popular.\* For example, 6,846 (37 percent) of the 18,484 bodies disposed of in Arizona in 1982 were cremated.\*\* If past nationwide estimates are correct, more than 4,000 of these cremations were direct cremations with no prior ceremony. Neither a chapel, preparation room, nor a display room are needed to provide cremation or direct burial services. These services require only minimal storage and transportation facilities. Nor are these statutory requirements necessary to protect the public. The public health rationale implicit in some of these requirements is not supported by current medical opinion.

However, these statutory requirements do impose a substantial barrier to entry into the funeral industry--particularly should a firm desire to engage only in direct dispositions.\*\*\* To obtain an establishment license a funeral director must invest in or, according to the Board's Attorney General representative, at least have access to the required equipment and facilities. As a result persons wishing to offer low overhead, inexpensive funerals may be unable to do so because of the cost of meeting these requirements.

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\* Because direct dispositions are neither "traditional" nor widely advertised, many consumers may still be largely unaware of this alternative.

\*\* Another low-cost alternative is direct interment without embalming or services. However, because records are unavailable, we were unable to determine how many additional bodies were disposed of through direct burial.

\*\*\* The first firm to specialize in direct dispositions began operation in California in 1971. Operating without the overhead expenses of traditional funeral homes, it was able to offer services at costs generally lower than those charged for direct dispositions by traditional funeral homes.

## CONCLUSION

Some Board licensing requirements are unnecessary and do not protect the public. Because dead bodies do not generally pose risks to public health, embalmers do not need to be licensed nor do funeral directors need prior experience as licensed embalmers. Funeral establishment requirements are also more restrictive than necessary because they require funeral homes to maintain unnecessary equipment and facilities.

## RECOMMENDATIONS

1. The Legislature should consider revising statutory requirements for licensing funeral service practitioners by deleting:
  - a. All requirements regarding licensing of embalmers and apprentice embalmers (A.R.S. §§32-1321 through 32-1329),
  - b. The requirement that funeral director candidates be practicing embalmers in order to qualify for licensure (A.R.S. §32-1330), and
  - c. The provision for certifying assistant funeral directors (A.R.S. §32-1332).
2. If licensing of embalmers is continued, the Legislature should consider revising entry requirements to give candidates the option of either a two-year apprenticeship or a one-year apprenticeship combined with one year of mortuary school.
3. The Legislature should consider deleting statutory requirements for funeral establishment facilities (A.R.S. §32-1338).
4. The Board of Funeral Directors and Embalmers should promulgate a regulation that clearly identifies licensed funeral directors as the responsible party for all employee actions and business transactions within their establishments.

### FINDING III

#### ARIZONA STATUTES GOVERNING PREARRANGED FUNERAL CONTRACTS ARE INADEQUATE.

Arizona law does not sufficiently protect persons who arrange and purchase funerals in advance of death. Consumers who purchase preneed funeral plans do not always receive merchandise or services purchased and risk losing funds. Because current laws are weak, the Board of Funeral Directors and Embalmers can take only limited action in response to these problems. In addition, the statutes unnecessarily limit competition in prearranged funeral sales.

#### Preneed Funeral Plans Can Benefit Consumers

Prearranged funeral plans offer several advantages to consumers. Through a preneed plan, the buyer can purchase the kind of funeral he desires, and at the same time, minimize distress and inconvenience for his survivors. Because the buyer has the opportunity to "shop around" and compare prices, he can also reduce funeral costs. Generally, prearranged plans save consumers approximately \$400 in funeral expenses.

Consumers may arrange and pay for funerals in advance of death in several ways. Consumers may initiate the transaction by going to a funeral home, or funeral directors or representatives of firms selling prearranged funeral plans may solicit individuals at home. The payments may be made in one lump sum or in installments. Typically, a consumer signs a contract which should describe in some detail which funeral goods and services will be provided in the future.

Consumers who purchase preneed plans, however, are vulnerable to abuse and fraud because they are typically elderly individuals, making a unique and unusual purchase. Preneed contracts are often lengthy, complex and offer great opportunity for misrepresentation.

### Consumers Risk Losing Funds

Consumers purchasing preneed funeral plans risk losing funds in at least three possible ways. First, consumers who purchase preneed funeral plans may not receive anticipated merchandise and services. Second, the accrued interest is not always applied against the funeral costs. Third, follow-up schemes involving issuance of insurance and/or debentures may further reduce the value of the preneed plan for the consumer.

Preneed funeral plans are generally of two types. One specifies all the services and merchandise to be delivered at time of death. The second specifies that the amount invested shall be applied against whatever funeral goods and services are selected by survivors at time of need. However, the wording on the preneed contract is frequently vague and leads to misunderstanding on the part of the buyer as to what he is actually purchasing.

Problems and disputes about prearranged funerals are a repeated source of complaints to the Board. Over the three-year period 1980 through 1982, the Board received 99 complaints, 12 concerning preneed contracts. Nine of these complaints involved the same funeral home. Since January 1978 the Board has received 21 complaints about preneed plans sold by this same funeral home. In these cases complainants sometimes had to pay hundreds of dollars more for the funeral under the guaranteed funeral plan. Although the preneed complaints have been concentrated at a single funeral home, the number of preneeds sold may increase and more complaints may result if sales of preneeds become more competitive (see pages 51-53).

Consumers Do Not Get What They Paid For - Purchasers of preneed funeral plans often think that they have fully paid for their funerals but, at time of need, there are additional costs they did not anticipate. The following examples illustrate this problem.

### Case 1

According to one complaint, the consumer had purchased a paid-in-full burial plan. The guarantee certificate specified a casket which was no longer available. The funeral director told the sons that if they wanted a casket that met the description on the guarantee certificate they would have to purchase a current model at \$858 extra. Since the consumer had visited the funeral director only a month before her death and was told that her preneed plan would pay for all her burial expenses, the sons questioned the additional charges. The owner of the funeral home told them that they could either pay the additional charges or their mother would "stay in our freezer until you do and there will be storage costs." The sons paid the additional charges. This complaint is pending investigation.

### Case 2

A preneed funeral contract stated that the funeral home would provide a redwood casket for use in the funeral services. The funeral home did not honor that contract when it provided a cloth-covered redwood casket over the survivor's specific objections. After the survivor filed a complaint, the Board obtained a consent agreement providing restitution because contractual prearrangements were not met. The funeral home agreed to refund \$75 to at least 13 consumers who had been guaranteed a redwood casket, but received a less expensive substitute. Also, the order requires that the funeral home give all holders of guarantee certificates, promising any type of redwood casket, the option of canceling with full restitution of monies or a \$75 reduction for failure to provide a redwood casket.

Interest Earned Not Available to Survivor - In some cases the interest which accrues on a prepaid funeral plan may not be used to pay for the cost of the funeral. In one case the funeral home attempted to withhold interest and make additional charges.

Case 3

A consumer purchased a preneed funeral plan in November 1969 which stated that certain funeral goods and services would be provided at an established price of \$395. At the time of death in June 1981, the preneed trust account amounted to \$669 including accrued interest. The total cost of the funeral was more than \$1,000. However, the funeral home credited only \$365 against funeral costs and the survivor had to pay approximately \$700 more. Following the complaint investigation, restitution was made to the survivor.

Transactions Involving Preneed Plans May Be Confusing - Purchasers of preneed funeral plans have been the objects of complicated schemes which make it even more difficult to determine what funeral services or expenses will be covered by the plan. One complicated plan started out with the sale of a guaranteed funeral plan. Later, the consumer received a burial policy and also "debentures" issued by the funeral home. Such complicated gimmicks or schemes confuse the consumer about his preneed purchase and provide opportunities for misrepresentation. As a result of problems with these schemes, at least one seller of preneed funeral plans lost his insurance license. In addition, this seller was under investigation by the Attorney General's office and the Corporation Commission for irregularities in the sales and/or issuances of these debentures. Although most complaints about preneed plans involved one funeral home, complaints have alleged similar problems at other establishments. The following complaint received by the Board illustrates this problem.

#### Case 4

A consumer purchased a funeral plan in 1956. Later she received an insurance policy. In 1971 she received debentures. The funeral home allowed her to cash in the debentures in 1979 for \$267 which included interest. At that time they said this withdrawal would not affect her funeral plan. However, when the consumer died two years later, the funeral home said the plan would not cover the funeral expenses. The survivors had to pay an additional \$349. When questioned, the owner became loud and obnoxious, further upsetting the survivors. This case was turned over to the Attorney General's office for investigation.

These examples reflect typical preneed complaints received by the Board. In addition to the monetary problems, it was common practice at the funeral home with the most complaints for employees to become loud, abusive and rude to those survivors who balked at paying additional charges for a guaranteed funeral plan. Thus, the good intentions of the deceased in purchasing a preneed funeral plan may have actually caused survivors additional monetary and psychological grief.

#### Preneed Statutes Are Inadequate

Three weaknesses are present in existing statutes which result in inadequate protection for consumers who arrange and pay for funerals in advance: 1) accountability for funds paid by consumers is minimal at best; 2) disclosure requirements do not ensure that consumers receive essential information about the provisions of their preneed contracts; and 3) the Board lacks clear authority to take action against preneed sellers. As a result the deterrent against preneed fraud is not sufficient.

Current trade and commerce statutes (A.R.S. §§44-1721 through 44-1725) provide little control over preneed sales and contracts. The law defines a preneed plan and requires that 100 percent of the payments made under

such a plan be deposited in a trust fund in a timely manner. Upon proof of death the statutes require the seller to turn trust fund proceeds over to the beneficiary. Violations of these statutes are classified as a Class 2 misdemeanor. At least 11 states\* have enacted stronger, more comprehensive legislation designed to control abuses in sales of preneed funeral plans.

No Accountability for Preneed Sales - Accountability for sale and management of preneed contracts is very limited. Current statutes do not designate a specific agency to be responsible for overseeing preneed contracts. There is no annual reporting requirement for sellers of preneed sales nor is periodic auditing required. As a result, the consumer has no source of information about persons or establishments selling preneed funeral plans or how the funds are managed.

No agency is currently responsible for regulating preneed sales. A single responsible agency would provide accountability for consumer funds which are paid to sellers of preneed plans. In 11 other states, a specific agency regulates preneed sales. In five states, the responsible agency is one which is accustomed to regulating financial transactions (e.g., insurance, banking or comptroller). In the other six states the funeral board or professional licensing department is responsible for regulating preneed sales.

Since sellers of preneed funeral plans are associated with establishments licensed by the Board of Funeral Directors and Embalmers, and the Board already regulates business practices of funeral homes, the Board appears to be a logical agency for regulating preneed contracts in Arizona. To ensure adequate control, the Board should be specifically authorized to regulate all aspects of preneed sales and management. With such authority, the Board could hold funeral directors responsible for their

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\* California, Colorado, Florida, Hawaii, Illinois, Indiana, Iowa, Kentucky, Maryland, Oklahoma, Washington

personnel who sell preneed plans. This would be similar to the responsibility of funeral directors for ensuring that their staff members comply with consumer protection regulations in other areas (see page 35).

The lack of annual reporting requirements in Arizona also limits accountability for preneed funds. Annual reporting by sellers ensures accountability of preneed funds by indicating the level of activity and resources available to meet future funeral obligations. This disclosure is similar to that which Arizona requires of other entities, such as banks, trust companies and title companies which hold trust funds. These entities must report how the funds are handled and where the funds are invested. An annual report can also serve as the basis for determining the present value of future obligations. Reporting should be required as long as the seller has outstanding preneed plans. Eight of eleven states we reviewed require annual reporting.\* At least one state\*\* requires that the disclosure be certified by a public accountant.

Audits or examinations of the records of sellers also ensures accountability. Seven\*\*\* of the eleven states we surveyed examined sellers' preneed account records on a periodic and/or exception basis. The cost of the examination could be borne by the seller, which is common practice in Arizona when financial institutions are examined by the State Banking Department. Four states\*\*\*\* which periodically examine trust accounts of sellers of preneed plans charge those sellers a fee for the audit. The charges vary depending upon the dollar amount of the trust or the amount of time involved in the audit. For example Colorado, with a population similar in size to Arizona, has preneed trusts totalling \$42.5 million

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\* California, Colorado, Hawaii, Illinois, Indiana, Kentucky, Oklahoma, Washington  
\*\* Washington  
\*\*\* Colorado, Hawaii, Illinois, Indiana, Kentucky, Oklahoma, Washington  
\*\*\*\* Colorado, Illinois, Oklahoma, Washington

(market value). One funeral home chain has between \$14 and \$15 million in several trusts. The examination fee for this seller is approximately \$2,300.

The requirement to make annual reports to the Board and the authorization to conduct audits would ensure that the Board would have access to the information needed to ensure compliance with the statutes on preneed. Although the Board has use of only a half-time staff position and a part-time investigator from the Attorney General's office, if necessary, audits of the records could be contracted out. Annual reports would be available for inspection when a problem arises.

Disclosure Requirements Do Not Protect Consumer - Current statutes do not require disclosure statements on the contract which inform the buyer of 1) the specific funeral services and merchandise included, 2) any provisions for substitution of goods and services, and 3) the disposition of the funds and the treatment of accrued interest. In addition, a statutory "cooling off" period and the publication of a consumer brochure would assist purchasers in evaluating proposed contracts.

The preneed contract should specify exactly what funeral services and merchandise will be furnished at time of need. Currently, the lack of such specificity is a source of problems as shown in Cases 1 and 2 of this Finding. Sometimes the problem is which casket was purchased. Other times the guaranteed funeral plan implies that all customary services will be provided but at time of need there are additional charges for such things as use of the chapel for a service.

Any provisions for the substitution of goods and services should also be disclosed. While some funeral goods and services specified in the plan may not be available or desired at time of need, substitutions to the plan often result in additional charges. Sometimes the specified casket model is no longer manufactured. Since many years may pass between purchase of plan and death, customs may have changed. Services with the body present may no longer be desired. The terms of the preneed funeral contract must

clearly state what provisions will be made if specified goods or services cannot be delivered at time of need. Also, the contract should clearly state whether the survivor has the right to substitute one funeral service for another, such as cremation instead of burial, without incurring additional costs.

Consumers should also understand exactly what will happen to the interest which accrues to the trust fund. Interest is taxable to the purchaser of a preneed plan as long as he lives. Treatment of interest following death, however, is not covered in current statutes. Because preneed plans may not specify that accrued interest can be applied to meet funeral expenses, problems arise at time of need over use of interest funds by funeral homes. As noted in Case 3 funeral homes sometimes fail to credit consumers with interest on their accounts.

An additional assurance that consumers fully understand their preneed contracts and do wish to make the purchases would be to allow cancellation without penalty for the period three to five days immediately following the sale. "Cooling-off" periods are commonly used where sales are made door to door. According to an assistant Attorney General, a cooling-off period for all preneeds is recommended because of the unique nature of this purchase and the fact that many elderly persons need this protection.

The Board could assist preneed purchasers by publishing a brochure about purchasing preneed funeral plans. The brochure should provide consumers with 1) basic information on types of preneed plans, 2) what provisions and stipulations to include in a contract, and 3) where to call if they have questions. The Board could publish the information as part of the consumer information brochure recommended in Finding I (see page 27) or as a separate brochure.

Board Lacks Authority to Discipline Preneed Sellers - The Board of Funeral Directors and Embalmers cannot take effective action against preneed sellers who defraud consumers. Neither preneed statutes nor the Board's enabling statutes define fraud in the sale or management of preneed plans

as a violation of law. Moreover, the Board's enabling statutes do not include preneed fraud as a ground for disciplinary action against licensees. These problems led the Arizona Court of Appeals to conclude that the Board has limited authority to regulate preneed sales.

Existing statutes do not define fraud or misrepresentation in the sale of preneed funeral plans as a violation of law. A.R.S. §44-1721 et seq address only the terms of the preneed agreement and establishment, deposit and disposition of the trust fund. Although A.R.S. §44-1725 defines failure to comply with preneed statutes as a Class 2 misdemeanor, the penalty does not apply to fraud or misrepresentation.

The Board's enabling statutes are also silent on the matter of preneed fraud. A.R.S. §32-1368 does not include fraudulent preneed sale among the violations identified as unlawful. A.R.S. §32-1363 does not specifically list preneed fraud as a ground for disciplinary action against licensees, although subsection 13 generally prohibits participation in an ". . . enterprise or plan whereby the public is defrauded."

Combined with the Board's lack of specific responsibility for regulating preneed sales noted previously, the vagueness of existing statutes limits the Board's ability to take action against preneed sellers. In a 1980 decision, the Arizona Court of Appeals recognized limitations on the Board's ability to prohibit fraudulent behavior:

". . . While the Board of Funeral Directors and Embalmers may regulate the entire spectrum of its profession's activities, its regulation is not directed at those activities which would be apt to entail fraud upon the consuming public. While the Board is charged with the duty of enforcing the statutory standards set for the profession and alerting prosecuting authorities to prearranged funeral plan legislation violations, there is nothing in Chapter 12 of Title 32 that provides it the type of substantial investigative force accorded to the Securities Division of the Corporation Commission for the investigation of frauds or possible frauds on the consuming public."

Thus, the Board is limited in taking action to deter fraud in the sale of preneed funeral plans. As a result it has taken action in relatively few complaints and has not revoked the license of one funeral home with a long history of preneed complaints.

Clarification of existing statutes would allow the Board to more adequately protect consumers. Amending A.R.S. §§32-1368 and 32-1363 to specifically identify preneed fraud as an unlawful act and a ground for disciplinary action would strengthen Board regulation of this area. This change would allow the Board to revoke licenses and impose administrative penalties up to \$2,500 for individuals and \$5,000 for establishments.\* In addition, the existing preneed statutes (A.R.S. §§44-1721 through 44-1725) should also specifically define fraudulent acts so that both sellers and the Board will know what acts are specifically prohibited.

Even if the statutes are strengthened to provide more protection for buyers of preneed funeral plans, however, problems created by preneed plans purchased in the past will continue. As the population continues to age, the Board will probably continue to receive complaints as the plans are presented.

#### Trust Requirements May Discourage Competition

Existing Arizona law unnecessarily restricts competition in the sale of prearranged funeral plans. High trust requirements and buyers' cancellation privileges discourage funeral homes from offering or promoting this service. As a result, prearranged funeral plans are not readily available to consumers.

Current requirements discourage funeral operators from offering preneed funeral plans. According to A.R.S. §44-1722, all proceeds of preneed sales must go into trust. The law prohibits the funeral operator from

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\* Currently the penalty under A.R.S. §44-1721 et seq is a maximum fine of \$750 and two months imprisonment.

deducting any costs of selling or marketing the plan from the preneed proceeds. Thus, costs of advertising, payments to salesmen and administrative costs must be covered by current revenues or other resources. In addition, the statutes also restrict the entrepreneur because, under the terms of a prearranged funeral contract, the seller cannot even recoup his sales and administrative expenses if the buyer cancels the contract anytime before death. At least one funeral director interviewed during our audit said he would not offer preneed services for these reasons.

The 100 percent trust requirement is higher than requirements governing preneed sales in other states. At least eight states allow sellers of preneed plans to retain a portion of the proceeds. However, four of these states require sellers who retain proceeds post a security bond, cash or securities to ensure that future funeral obligations can be met.\* If the Legislature reduces trust requirements, a similar bonding requirement would provide an important protection for Arizona consumers. The amount of the security should be reasonably related to the current sales volume and the value of the outstanding preneed plans. The Insurance Department has established for example, a sliding scale for the bond/security requirement of persons/companies offering motor vehicle service contracts.

Buyers' cancellation privileges also discourage funeral directors from offering preneed funeral plans. Buyers who cancel preneed contracts may wish to change funeral homes, desire alternative funeral services (e.g. direct cremation instead of burial) or may move out of the funeral home's service area. If the seller has not been permitted to keep a percentage or a fixed fee from the proceeds to cover selling and administrative costs, buyer cancellation would result in a net loss. Generally the seller can cancel the contract only when the buyer has failed to pay his installment payments.

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\* Illinois allows actual expenses up to 5 percent. Colorado, Iowa, Oklahoma and Washington allow between 10 and 20 percent to be retained. Hawaii allows up to 30 percent retention. California and Indiana do not specify in statutes the amount retained.

Because current law discourages funeral operators from offering preneed plans, this potentially beneficial service is not readily available to consumers. Advertising and promotion of preneed plans is limited to a few funeral homes currently offering preneed plans. Thus, consumers who could benefit from a prearranged plan may not know that this service is available. Others interested in buying a preneed plan are limited to the few homes which currently offer a plan.

#### CONCLUSION

Arizona law does not adequately control abuses which can occur in the sale of prearranged funeral services. Current law lacks financial reporting, disclosure and other requirements which ensure accountability for trust funds and consumer knowledge of contract provisions. The Board of Funeral Directors and Embalmers lacks authority to take action against sellers who defraud consumers. In addition, current trust requirements unnecessarily limit competition in prearranged funeral sales.

#### RECOMMENDATIONS

1. The Legislature should consider strengthening protection of consumers who purchase funeral plans by
  - a. Designating the Board of Funeral Directors and Embalmers to regulate sales and placing A.R.S. §44-1721 et seq under the Board's enabling statutes;
  - b. Authorizing audits of preneed records to ensure compliance and allowing the Board to recover the actual costs of the audits from the seller of the preneed agreements;
  - c. Requiring disclosure statements on contracts specifying: (1) services and merchandise to be delivered, (2) how accrued interest will be handled after death, and (3) the conditions under which alternate funeral goods and services may be substituted;

- d. Amending A.R.S. §32-1368 to define misrepresentation and fraudulent activities in the sale of preneed plans; and
  - e. Amending A.R.S. §32-1363 to authorize the Board to take disciplinary actions against licensees and establishments for violations of preneed statutes and regulations.
2. The Legislature should also consider amending A.R.S. §44-1721 et seq to reduce trust requirements by
- a. Enacting less restrictive trust provisions so that preneed sellers may retain either a percentage of the proceeds or a fixed charge;
  - b. Requiring sellers to post bonds when less than 100 percent of the proceeds goes into trust, with the size of the bond reasonably related to the sales volume and future obligations; and
  - c. Establishing a cooling-off period of several business days for buyers of preneeds. However, in cases in which the seller has put 100 percent in trust, cancellation after a cooling-off period should allow the seller to retain a fee.

## OTHER PERTIENT INFORMATION

Although the Board of Funeral Directors and Embalmers regulates activities related to preparing human remains for final disposal, the Board has no responsibility for cemetery sales or cemetery and crematory operations.

### Cemetery Sales

The Arizona Department of Real Estate is currently responsible for regulating cemetery sales. A.R.S. §§32-2194 through 32-2194.14 require that all cemeteries, except for religious, municipal or fraternal cemeteries, be operated by a corporation licensed in Arizona and approved by the Real Estate Commissioner. These statutes also require cemetery owners to meet the requirements on the sale of subdivided lands (A.R.S. §§32-2181 through 32-2185.08) and establish trust requirements for perpetual or endowed care cemeteries.

### Cemetery and Crematory Operations

No agency regulates the operations of cemeteries and crematories. The Board's authority ends once the funeral director turns a body over to the cemetery or crematory. The Department of Health Services (DHS) requires operators to maintain accurate records of disposals and monitors smokestack emissions from crematories but has no specific requirements for the handling of bodies between delivery and interment or cremation.

AREAS FOR FURTHER AUDIT WORK

During the course of our audit, we identified potential problems requiring further audit work in several areas related to the Board of Funeral Directors and Embalmers. Due to time and staffing constraints, we were unable to review these areas. These potential issues are:

1. Does the Board adequately enforce its statutes and regulations?
2. Does the Board operate efficiently?

AUDITOR GENERAL COMMENT

Because the following response from the Board of Funeral Directors and Embalmers cites extremely graphic details regarding the harm from poor embalming, we carefully rereviewed the issues contained in Finding II of the report. The problems described in the Board response are problems for which a funeral director could be held responsible. (In fact, open wounds, leaking sutures and failure to embalm should be apparent to most untrained observers.) Therefore, licensing only funeral directors provides sufficient protection in this area.

With regard to the health risks addressed in the response, we recontacted the public health authorities cited in the report. These authorities stated the health risks cited by the Board are minimal and that reasonable precautions (such as wearing gloves) can easily be taken to further reduce any risk.



# Arizona State Board of Funeral Directors and Embalmers

1645 West Jefferson Phoenix, Arizona 85007

August 2, 1983

Douglas R. Norton  
Auditor General  
111 West Monroe, Suite 600  
Phoenix, AZ 85003



Re: Performance Audit - Sunset Review

Dear Mr. Norton:

This is in response to the revised preliminary report draft of the Sunset Review performance audit received on July 28, 1983 which requests a response by August 5, 1983. While we understand that you have a tight schedule, we wish the record to show that this Board was given little opportunity to reflect on the content of this document and develop a comprehensive detailed rebuttal. What follows is a capsulized version of what the response might have been had proper time been permitted.

## FINDING I

The Board agrees that the legislature should amend the statutes to clearly empower the Board to promulgate regulation of funeral industry business practices to provide more effective consumer protection.

The Board's present regulations meet the legislative mandate and it can go no farther without clear authority under the law.

The Board wholeheartedly endorses the concept of a consumer information brochure and has, in fact, applied for and received a budget appropriation to create and print one in the 1983-84 budget. The Board is also in agreement with the recommendations set forth under this finding.

## FINDING II

The Board is in disagreement with the finding that embalmers do not need to be licensed:

### The Risk of Poor preparation is minimal

This is probably true and it is probably due to the fact that embalmers must pass an examination prior to being allowed to embalm without supervision. To pass the examination they must have had education in the field of embalming. While complaints are few, when they do occur the harm is traumatic in nature, staying forever with the bereaved:

"As you are aware, the body was too badly decomposed for any kind of definitive examination, this despite the fact that only four weeks had passed. Upon examination, the body was almost totally decomposed and crawling with maggots. Identification was made from the wedding ring and shirt he had worn. It is our opinion that this body had never been embalmed. No traces of formaldehyde were detected and it is highly unlikely that maggots could survive its presence."

"On opening the casket, which had obviously been buried and exhumed, the body was found to be infested with myiasis. There was an advanced state of decomposition with liquification of many parts of the body, and gelatigenous degeneration of the epidermis. The odor was so pungent that the department of the hospital asked to be dismissed from their jobs. We felt that because of the advanced state of decomposition it would be useless in completing any further examination."

"Upon opening the shipping container, I made note of the condition of the body. The neck and cheeks seemed to be swollen. There was evidence of purge from the mouth and the abdomen was distended with leakage of fluids from the abdominal sutures. The tracheotomy suture was dry and tight, as well as the suture from the carotid incision used for embalming. The casts were still intact on the legs; the skin color was green. The mother of the deceased had requested to view the body before we applied any cosmetics. She and her two daughters came to the funeral home that evening and witnessed the same conditions I had previously described...She was very upset on the appearance of her daughters body."

"Rigor mortis was not relieved from the mouth. The tongue was caught between the teeth. When the embalmer went ahead and injected the body, the tongue swelled, causing major distortion of the mouth. Major swelling of the neck and right eye occurred due to overinjection. The autopsy incisions leaked in the thoracic cavity. They were not all sealed and were poorly tied off. Four sites of the hospital incisions and hospital stitches were not resutured and all four leaked. All were plainly visible on the body. The body was never washed after embalming. Blood and other matter covered the neck and hair. The hair was sutured into the cranial sutures, causing one very large knot on the left side of the head. The body was almost nonviewable."

"The body was extremely swollen in the face, more so on the right side than on the left. There was extensive purge from both mouth and nose necessitating I replace the pillow and reaspirate the cavity; very little fluid in cavity but extreme amount of blood aspirated from heart. The body was badly discolored (appeared to have been dead and unembalmed two or three days). I was forced to tell the family about the condition of the body and the brother-in-law also saw the body and agreed that the immediate family should not be allowed to view it and the casket should remain closed. The family agreed to this and decided to have the funeral and interment as soon as possible."

"My daughter was killed in an auto accident... She was taken to the funeral home after an autopsy that I couldn't prevent. They did a terrible job in all aspects. My heart was torn apart when I looked at my daughter and saw her hair all matted, filled with grit and dead grass or weed. She had a hole in her head, part of the wound was hanging out. Where the Medical Examiner butchered her during his autopsy, her skin was drawn together with heavy string and tied and left like that. That's how I remember my daughter. It is my understanding that the mortician is supposed to fix up the body after an

autopsy. My ex-husband saw my daughter. He told my son there was grit and dirt in the palms of my daughter's hands. The mortuary did not even comb my daughter's hair. My son and niece went back to the mortuary after seeing her and brushed her hair."

FINDINGS OF FACT: The human remains of a 13-year old boy were delivered to the custody and control of the respondent and were the respondent's responsibility for a period of four days. During that period the respondent failed to completely embalm the remains in accordance with approved embalming practices and further failed to refrigerate or otherwise properly treat or care for the remains. The respondent willfully failed to render embalming services in a proper and professional manner and failed to use methods generally prescribed for and recognized by the embalming profession. The respondent knowingly and willfully permitted the remains to materially and substantially decompose with full knowledge that the family planned funeral services. The dignity of the death was materially demeaned due to the actions and omission of the respondent in that the body emitted foul decomposition odors at the family funeral services, was in an advanced and premature state of decay and was ravaged by maggots, causing the family great grief and anguish.

Except for the last entry in this section, for which an establishment, a funeral director and embalmer and an apprentice were suspended, all cases are under investigation at the present time having been received within the last year.

These graphic details are used here to show the trauma that is involved with this type of complaint. If the individual responsible cannot be penalized other than by dismissal, that person is free to go somewhere else and ply his trade. The Board, of course, can take action against the responsible funeral director and against the mortuary and the mortuary would be subject to civil action but the perpetrator simply ambles off to another city to perhaps cause more grief and trauma.

#### Health Risks are Minimal

Due to new diseases such as AIDS, embalmers must be aware of new developments in the field and must have been trained to detect and correct problematical situations:

Example: A person dies of uremic poisoning. A by-product of uremic poisoning is ammonia which neutralizes formaldehyde which in turn causes decomposition extremely fast which in turn would preclude public viewing. Even private viewing by the family could cause great trauma. A knowledgeable embalmer would recognize the symptoms and take corrective action.

Example: A person who dies develops gas gangrene. Gas gangrene is contagious. A person handling the remains can contract it and can pass it on to someone else. If the remains were not treated properly and the family wished to assist in dressing, cosmetizing or hair dressing, they could also contract it and pass it on to others. A knowledgeable embalmer would recognize the symptoms and take corrective action.

Example: A person dies of bubonic plague. This requires expertise in the handling of the remains as does all of the other highly contagious diseases. The fact that a death has occurred due to such disease does not preclude the fact that the family wishes to view the remains either in private or public viewing. There are many psychological texts which attest to the necessity for some persons to go through the ritual of grief including viewing the remains after death and including the need to touch the deceased to assure themselves that death has indeed occurred.

## Restrictive Entry Requirements

The Board agrees that some licensing requirements are too restrictive but such agreement is only in the following areas.

1. Eligibility for licensure as an embalmer would be sufficiently met with one year of apprenticeship and one year of mortuary school.
2. Apprentices should be given the option of taking the embalmer exam prior to completing apprenticeship. Licensure, of course, would be held pending that completion.
3. Provision should be made whereby a licensee could regain licensure without exam within five years of lapse by payment of back fees and penalties.
4. Provision should be made for biennial or triennial licensure as an economy measure.
5. Reciprocal candidates should be required to take a state exam on funeral laws and health laws pertaining thereto.

## A Funeral Director does not require embalming experience

The funeral director responsible for an establishment requires more knowledge than the report presumes. A visual inspection of remains after embalming is insufficient if problems are to be avoided. The responsible funeral director must have education and experience in embalming in order to handle the type of "unusual" but frequent situations which occur as noted under "Risk of Poor Preparation.." of this section. This person bears all the responsibility of the operation of the establishment. To simply be in a position of being fired or having his license taken away will not mitigate the trauma to the bereaved that poor supervision might entail. The Board credits the fact that the small number of embalming complaints is in direct relation to the fact that the funeral director is required to know all the details required to run an honest and successful mortuary but most particularly the rudiments of his profession which is the embalming procedure.

NOTE: Attached to this response is a typical mortuary school curriculum included to show the knowledge required to provide services to consumers.

## Establishment Facilities requirements are too restrictive

The equipment and facilities required by Rule R4-12-312.A. set forth the minimum necessary to perform embalming in a sanitary manner. A.R.S. 32-1338 sets forth the requirements for the maintenance of an establishment.

A "chapel" is generally defined as a general service room with chairs that can be used for funeral service, visitation etc.

A preparation room presupposes that embalming will take place but also provides an emergency center for the care of the deceased whether or not embalming is performed. It should be noted that after 24 hours of death or refrigeration, Arizona law requires embalming.

Arizona law does not require a casket or container be purchased. However, except in rare instances, cemeteries require caskets and crematories require containers before they will dispose of a body. It seems appropriate that the consumer should have the opportunity to see what they are purchasing, hence a display room appears a logical requirement. It doesn't have to be a room per se but an area set aside so that the consumer may see the actual product available. One mortuary uses a closeted area of very nominal size which is acceptable.

The Board has interpreted the requirement for a funeral coach to mean that an establishment must have the availability of one should a family want it. Many mortuaries share or borrow coaches for this purpose.

All of the above presupposes that a mortuary will handle embalming and a funeral at some time or other. An establishment which is set up with the intent to only offer "direct cremations" and without the above facilities available to them would be required to turn away all other requests for funeral service. The problem comes in when consumers have remains sent to a "direct cremations only" establishment, find out that "direct cremation" means no embalming, no public viewing, no funeral service, etc and then change their minds. In addition, that establishment would be very reluctant to lose a client and this may lead them to make other arrangements through another funeral home creating confusion to the consumer. Even with direct cremations, some kind of container will probably be required by the crematory and the consumer should have the opportunity to see it. Many consumers opt for cremation but still want the amenities of embalming, viewing and funeral service. Going to a place dealing in direct cremations only would not cater to their desires. There is also the possibility that a body delivered to a "direct cremations only" establishment would require embalming due to health requirements and they would be unable to do it without a preparation room. Full-fledged establishments have direct cremation services available at modest prices and are able to bear the limited income from these services by also offering complete funeral services.

The Board is in disagreement with recommendation 1 and 3 under this section.

The Board agrees with recommendation 2 for a one-year apprenticeship/one year mortuary school requirement.

The Board has no disagreement with the need for further clarification of "responsible funeral director".

### FINDING III

#### PRENEED

The Board endorses the recommendation for strong preneed legislation. If the legislature sees fit to designate the Board as the agency responsible for regulating sales of preneed plans and vesting the Board with full authority to oversee preneed trust funds, it wishes to request that the following additional considerations be noted:

Many if not most preneed sales include cemetery arrangements and indeed are sold by cemetery salesmen. So long as this is permitted, a real problem exists. A.R.S. Section 32-2134 of Real Estate law states:

"Notwithstanding any other provision of law to the contrary, the commissioner may issue without examination to any person who has applied and otherwise qualifies for a cemetery salesman's license, a temporary cemetery salesman's license good for a period not to exceed ninety days from the date of issuance. An applicant shall not be entitled to more than one temporary license without examination."

This law permits any person to apply for and immediately acquire a license to sell preneed cemetery plans. This license is good for ninety days. There is no background check required. Feasibly, (and it has occurred) a person with a felony conviction for fraud could operate in the state for a ninety day period undiscovered, and perpetrate fraud and misrepresentation in this area and be out of the state before it was discovered. The only residency requirement for this license is ninety days.

If preneed legislation is enacted, it is recommended this statute be repealed or that the law address the issue by requiring all sellers of preneed to have a background check for prior conviction and no certificate of qualification be issued until such time as investigation shows no prior history of fraud or misrepresentation. It is our understanding that the Real Estate Department would have no objection to the repeal of the applicable statute as it has already caused it problems.

The legislature should also be aware that this kind of program is a large undertaking and, as pointed out in the report, the Board's staff consists of only half a person. A venture this size will require adequate funding, administrative and clerical personnel, possibly an inspector and at least a contract auditor. The Board should be empowered and funded for such provisions.

The Board wishes to conclude its comments with a commendation to the efforts of the auditors who conducted this performance review.

Throughout this audit, they demonstrated total courtesy, thoroughness and open minds. Though we are in disagreement with some of these findings, we can agree that we were granted ample opportunity for the statement of our viewpoints and that this audit was conducted in a professional, fair and impartial manner.

Respectfully submitted,



Arthur R. Adair  
Secretary

**204 MEDICAL RECORD SCIENCE 3 Units**

*Prerequisite:* 102 and 103 Medical Record Science, Medical Terminology, Anatomy and Physiology with a grade of "C" or better, or employed as a coder.

Two hours lecture and three hours laboratory per week.

Principles of nomenclature and classification; coding of diseases and operations for medical research purposes according to the various recognized systems. Indexing and retrieval of data. Specific emphasis and training ICD-9-CM; training in International Classification of Diseases Adapted. Tumor registries, preparation of abstracts and reports.

\$5.00 materials fee.

**205 MEDICAL RECORD SCIENCE — DIRECTED PRACTICE 4 Units**

*Prerequisite:* 103 Medical Record Science, 204 Medical Record Science with a 2.5 GPA or better, or equivalent.

One hour lecture and discussion and 16 hours of directed practice per week.

Lecture and discussion on selected aspects of medical record departmental management and supervision. Supervised experience 16 hours per week in affiliated hospitals actual performance under supervision of the various medical record department functions.

**207 MEDICAL RECORD SCIENCE — TUMOR REGISTRY 2 Units**

*Prerequisite:* Medical Terminology 65AB, Medical Record Science 206 or equivalent, current employment in related fields.

Two hours lecture per week.

Fundamental methods of data collection, preparation and dissemination of information for a Tumor Registry, including data such as stage of disease, treatment performed, current status of the patient, and length of survival.

\$5.00 materials fee.

**Medical Services Coordinator**

**115 MEDICAL STAFF SERVICES SCIENCE 3 Units**

*Prerequisite:* Enrollment in the Medical Staff Services program.

Three hours lecture per week.

A comprehensive introductory course in fundamental concepts, principles and organization of the medical staff office of the hospital. Includes the purpose and role of the medical staff in the hospital; credentialing physicians and allied health professionals; initial staff appointment; reappointment; privilege delineation, preparing minutes and agendas; relating to various hospital departments and physicians; monitoring and documenting proctoring, peer review and quality assurance. Emphasis will also be given to standards of the Joint Commission on Accreditation of Hospitals and California's Title 22, medical staff office functions, management and budgeting responsibility.

**116 MEDICAL STAFF SERVICES SCIENCE 3 Units**

*Prerequisite:* Medical Staff Services 115, typing 50 wpm, and speed writing ability.

Three hours lecture per week.

Designed for the advanced medical staff science student. Continues foundation instruction of meeting standards of the Joint Commission on Accreditation of Hospitals and California Medical Association guidelines, and advanced review of California's Title 22. Introduction to medical staff law, including: due process and hearings; peer review; the impaired physician; bylaws, rules and regulations; hospital and physician liability; and confidentiality, discovery and immunity. Throughout the course there will be advanced review of office management systems and the student will prepare a medical staff office budget.

**215 MEDICAL STAFF SERVICES SCIENCE INTERNSHIP 4 Units**

*Prerequisite:* Medical Records 115 with a passing grade of "C" or better and concurrent enrollment in Medical Records 116.

One hour lecture and nine hours laboratory per week.

Lecture and discussion on selected aspects of medical staff services departmental management and supervision. Directed practice of nine hours per week in affili-

ated hospitals provides a total of 160 hours during the semester with actual performance of the various medical staff services department functions.

**MORTUARY SCIENCE (MORT)**

**48 SELECTED TOPICS IN HEALTH SCIENCE ½-2 Units**

*Prerequisite:* Completion of two semesters in Mortuary Science program.

Three hours per week for nine weeks, offered during Summer Intersession.

Selected and assigned topics to enhance learning in specific courses and procedures. (*Credit/No Credit.*)

**80A FUNERAL SERVICE MANAGEMENT 2 Units**

*Prerequisite:* Admission to the Mortuary Science program.

One hour lecture and three hours laboratory per week.

This course is designed to teach mortuary science students how to record transactions specific to the funeral home after an introduction to accounting theory and practice.

\$5.00 materials fee.

**80B FUNERAL SERVICE MANAGEMENT 3 Units**

*Prerequisite:* Admission to Mortuary Science program.

Six hours lecture per week for nine weeks.

This course is designed to instruct the students of mortuary science in the areas of mortuary contracts, negotiable instruments, agency, beneficiaries and certain death benefits. It includes an introduction to mortuary law, the laws regarding dead bodies, disposal of the dead, including the rights and duties of such disposal. The rights and duties of the mortician, the liability for funeral expenses, and the rules regarding disinterments and cemeteries are studied along with the disposition of property after death.

\$5.00 materials fee.

**80C FUNERAL SERVICE MANAGEMENT 3 Units**

*Prerequisite:* Admission to the Mortuary Science program.

Six hours lecture per week for nine weeks.

Designed for the mortuary science student, this course includes the following: the dual role of the funeral director and the major responsibilities of each role; inter- and intraprofessional relationships and responsibilities; insurance and funeral service practice; the funeral service agreement form; the Federal Truth in Lending Act and funeral service practice; application of the Federal Wage and Hour Act to funeral service; and the comparison of funeral customs the world over, with present practices.

\$5.00 materials fee.

**81A EMBALMING ANATOMY 2 Units**

*Prerequisite:* Admission to the Mortuary Science program.

Two hours lecture per week.

Provides foundation instruction in structure of the human body for embalming and pathology. This introduction includes terminology and the basic structures and organization of the body. The skeletal, integumentary, and digestive systems are studied in detail as they relate to the preservation and disinfection of the embalming process.

\$5.00 materials fee.

**81B EMBALMING ANATOMY 2 Units**

*Prerequisite:* Completion of first semester Mortuary Science program.

Two hours lecture per week.

A continuation of 81A Embalming Anatomy in which the urinary, respiratory, muscular, endocrine, nervous and reproductive systems are studied in detail as they relate to the preservation and disinfection of the embalming process. Designed for the mortuary science major, with emphasis on human body structure with a minimal amount of physiology and pathology.

\$5.00 materials fee.

**82 FUNERAL SERVICE CEREMONIES AND CUSTOMS 2 Units**

*Prerequisite:* Admission to Mortuary Science program.

Two hours lecture per week for nine weeks.

Procedures in military, fraternal and religious funerals are discussed for a complete understanding of all principles and variations involved. In addition, the history of American funeral directing is studied from early Egyptian customs to the present day.

\$5.00 materials fee.

**83A RESTORATIVE ART 2 Units**

*Prerequisite:* Admission to Mortuary Science program.

One hour lecture and three hours laboratory per week.

An introduction to restorative art. A detailed study is made in this course of each of the facial features and its relationship to a complete restoration. In the laboratory the student has an opportunity to follow through with the modeling in clay of each of the features he has studied, both as a single feature and then using plaster of paris heads for reproductions.

\$10.00 materials fee.

**83B RESTORATIVE ART 2 Units**

*Prerequisite:* Completion of first semester Mortuary Science program.

One hour lecture and three hours laboratory per week.

This is a discussion of major restorations and explains how all previous restorative art work can be used to complete each type of case. Color theory and cosmetology are discussed. In the lab the student does feature modeling in cotton and collodion and wax on both plaster of paris and latex heads. In addition, there is practical work in cosmetics, hair dressing, color pigments and preparation of death masks.

\$10.00 materials fee.

**84A FUNERAL SERVICE SCIENCE 1 Unit**

*Prerequisite:* Admission to Mortuary Science program.

One hour lecture per week.

A course designed for mortuary science students based on the curriculum outline of the American Board of Funeral Service Education. It is an introduction to basic scientific concepts discussed from the embalming point of view. Subjects included are structure of matter, the nature of chemical change, mixtures, and compounds and their nomenclature to provide a basic knowledge for the study of embalming fluids. An introduction to solutions and their properties with their applicability to embalming fluids is presented. Consideration is given to acids, bases, and salts and their importance in the embalming process.

\$5.00 materials fee.

**84B FUNERAL SERVICE SCIENCE 1 Unit**

*Prerequisite:* Completion of first semester Mortuary Science program.

One hour lecture per week.

A continuation of Funeral Service Science 84A commencing with a survey of organic compounds of concern to the embalmer as to their composition, properties and uses, with special emphasis on those used in embalming. The formulation of embalming fluids and the function of the various components is discussed, as well as the accessory chemicals used in embalming. The decomposition of tissues after death, and their preservation and disinfection is presented. An introduction to toxicology for the embalmer and the hazardous character of chemicals used in embalming or found around the mortuary is considered.

\$5.00 materials fee.

**85A PATHOLOGY AND PUBLIC HEALTH 4 Units**

*Prerequisite:* Admission to Mortuary Science program.

Four hours lecture per week.

An introduction to disease processes, with the emphasis on those diseases that are the major causes of death and the embalming problems which they present.

Emphasized are disturbances in circulation with its embalming problems, diseases of the blood and post-mortem conditions, and diseases of heart and blood vessels and their postmortem conditions. An orientation to infectious disease emphasizes those microorganisms that cause decomposition of the body after death, and the embalming problems presented. Stressed are the potential health aspects of embalming. The principles of disinfection of human remains are emphasized, and included is a description of suitable disinfectants for mortuary procedures.

\$5.00 materials fee.

### 85B PATHOLOGY AND PUBLIC HEALTH 2 Units

*Prerequisite:* Completion of first semester of Mortuary Science program.

Two hours lecture per week.

A continuation of Pathology and Public Health 85A commencing with a study of specific infectious diseases to acquaint the student with the ones that may be contacted while embalming. Continually stressed is the need for safeguard measures in the handling and embalming of human remains to protect the public health. The course includes the diseases of the respiratory, digestive, urinary, reproductive, nervous systems, tumors, diseases of the bones and joints, endocrine glands and their postmortem conditions. Throughout the course, terminology is emphasized to facilitate the interpretation of death certificates.

\$5.00 materials fee.

### 86A FUNERAL SERVICE FUNDAMENTALS 1 Unit

*Prerequisite:* Admission to Mortuary Science program.

One hour lecture per week.

Intended basically for those students entering into the Mortuary Science Program with orientation of the fundamentals of mortuary science as it relates to the preparation of the documents necessary for the disposition of human remains. Instruction in the proper use of mortuary equipment and proper use of the telephone as an instrument in communication between the funeral director and the public.

\$5.00 materials fee.

### 86B FUNERAL SERVICE FUNDAMENTALS 3 Units

*Prerequisite:* Admission to Mortuary Science program.

Six hours lecture per week for nine weeks.

Course includes lecture/demonstration experience in traditional and contemporary funeral merchandising methods. Areas of study include methods of overhead recovery, balancing the line, price progression, display of funeral merchandise, purchase, inventory control, FTC and OSHA.

\$5.00 materials fee.

### 87 MORTUARY LAW 1 Unit

*Prerequisite:* Admission to Mortuary Science program.

One hour lecture per week.

This course consists of state laws, rules and regulations relative to embalmers, apprentice embalmers, and funeral directors.

\$5.00 materials fee.

### 88A EMBALMING 2 Units

*Prerequisite:* Admission to Mortuary Science program.

One hour lecture and three hours of embalming lab.

Course is designed to include basic orientation, history of embalming to present times, moral and sanitary considerations of embalming, methods of handling human remains, including those of a contagious or infectious nature, demonstration of the various methods of preparation.

\$10.00 materials fee.

### 88B EMBALMING 4 Units

*Prerequisite:* Completion of first semester of Mortuary Science program.

Three hours lecture and three hours laboratory per week.

Continuation of Embalming 88A, with emphasis upon development of embalming techniques, of remains having various diseases, treatment of localized areas by supplemental methods of preservation and disinfection treatment of bodies contaminated by radiation.

\$15.00 materials fee.

### 89 FUNERAL SERVICE PSYCHOLOGY 4 Units

*Prerequisite:* Admission to Mortuary Science program.

Four hours lecture per week.

A brief introduction to psychology, basic terminology and theories. Emphasis is placed on the study of grief, bereavement and mourning.

\$5.00 materials fee.

### 90 FUNERAL SERVICE COUNSELING 3 Units

*Prerequisite:* Admission to Mortuary Science program.

Six hours lecture per week for nine weeks.

A course aimed at the study of concepts, techniques and procedures used by the funeral director in his role as a counselor.

\$3.00 materials fee.

### 99ABCD MORTUARY SCIENCE — WORK EXPERIENCE 1-4 Units (Variable Unit Class)

*Prerequisite:* Admission to Mortuary Science program.

One hour lecture and a minimum of five hours employment per week in a mortuary.

On-the-job training for students in the mortuary science area.

## MUSIC (MUS)

### 98ABCD MUSIC CREW ACTIVITY 1-1-1-1 Unit

*Prerequisite:* None.

One hour lecture and one hour laboratory per week.

Designed for students in music who are enrolled in a performance or applied music class. The purpose of the course is to provide a framework in which students may work on the problems relating to the implementation of the performance. Areas to be covered include: preparation of the concert program, preparation of the performance auditorium or recital hall, overseeing publicity methods.



Arizona State Board of Funeral Directors and Embalmers

1645 West Jefferson Phoenix, Arizona 85007

602 - 271-3095

August - 1981

BOARD INFORMATIONAL RELEASE

81-2

TO: ALL RESPONSIBLE FUNERAL DIRECTORS

FROM: ARTHUR R. ADAIR, SECRETARY

SUBJ: IMPLEMENTATION OF BOARD RULES REGARDING  
PRICE LISTS AND EMBALMING CASE REPORTS

You have recently been sent a copy of the new Board Rules; this is to advise you that the new Rules R4-12-303 "Price List Requirements" and R4-12-311.A.10 pertaining to embalming case reports will be implemented on October 1, 1981. On and after that date, your establishment will be required to disclose itemized prices according to the specific requirements contained in R4-12-303, and to use an embalming case report as provided in R4-12-311.A.10. All other new rules have been in effect and enforceable since June 16, 1981.

Enclosed with this release are Board recommended price list and embalming report forms to be used in the implementation of the above-noted rules. The itemized price lists have been translated into Spanish; the Board encourages licensees to provide these Spanish price lists to their Spanish-speaking clients.

ABC FUNERAL HOME  
100 Main Street  
Anytown, Arizona 85000  
Telephone: (602)123-4567

FUNERAL SERVICES PRICE LIST

Traditional Funeral Charges:

ABC Funeral Home charges the following prices for a traditional funeral service. A traditional funeral service includes embalming and related preparation (cosmetic, dressing and casketing services) of the remains, full professional services and use of funeral home facilities for viewing or visitation and the funeral ceremony and formal vehicle transportation to the gravesite.

<u>ITEM</u>	<u>PRICE</u>
1. Removal of remains (within county)	\$ xx.
2. Embalming services	xx.
3. Professional services	xx.
4. Use of facilities (including one visitation day and funeral ceremony)	xx.
5. Funeral hearse (within county)	xx.
6. Each limousine (within county)	xx.
7. Caskets are available for sale from \$xx. to \$xxxx.	<u>xx.</u>

TOTAL (including selected casket):

Direct Burial or Cremation Charges:

ABC Funeral Home charges the following prices for direct burials or cremations. Direct burial or cremation includes professional services and use of funeral home facilities for receiving and holding the remains and direct transportation of the remains to the gravesite or crematory. Viewing or visitation and a funeral ceremony are not included.

<u>ITEM</u>	<u>PRICE</u>
1. Removal of remains (within county)	\$ xx.
2. Professional services (direct disposition)	xx.
3. Use of facilities (direct disposition)	xx.
4. Cremation container (NOTE: SOME CEMETERIES MAY NOT ACCEPT CERTAIN CONTAINERS FOR BURIAL.)	xx.
5. Refrigeration services (NOTE: EMBALMING SERVICES NORMALLY ARE NOT REQUIRED IF THE BURIAL OR CREMATION IS LESS THAN 24 HOURS AFTER DEATH. HOWEVER, EMBALMING OR REFRIGERATION OF THE REMAINS IS NECESSARY IF BURIAL OR CREMATION WILL BE 24 HOURS OR MORE AFTER DEATH.)	xx.
6. Direct transportation to crematory/cemetery	<u>xx.</u>

TOTAL (including selected casket or container):

THE FUNERAL DIRECTOR WILL TELL YOU ABOUT THE PRICES FOR OTHER MERCHANDISE AND SERVICES. THIS PRICE LIST DOES NOT INCLUDE CEMETERY OR CREMATORY CHARGES OR CHARGES FOR GRAVE MARKERS, FLOWERS, NEWSPAPER NOTICES OR OTHER ITEMS PURCHASED FROM OTHER SOURCES WHICH YOU MAY ORDER THROUGH THIS FUNERAL HOME.

ABC FUNERAL HOME  
 100 Main Street  
 Yuma, Arizona 85000  
 Telephone: (602)123-4567

FUNERAL SERVICES PRICE LIST

Traditional Funeral Charges:

ABC Funeral Home charges the following prices for a traditional funeral service. A traditional funeral service includes embalming and related preparation (cosmetic, dressing and casketing services) of the remains, full professional services and use of funeral home facilities for viewing or visitation and the funeral ceremony and formal vehicle transportation to the gravesite.

<u>ITEM</u>	<u>PRICE</u>
1. Removal of remains (within Yuma city limits)	\$ 25
2. Embalming services	175
3. Professional services	250
4. Use of facilities (including one evening visitation and funeral ceremony)	100
5. Funeral hearse (within Yuma city limits)	25
6. Each limousine (within Yuma city limits)	25
7. Caskets are available for sale from \$200 to \$4,000	<u>200</u>

TOTAL (including selected casket):

Direct Burial or Cremation Charges:

ABC Funeral Home charges the following prices for direct burials or cremations. Direct burial or cremation includes professional services and use of funeral home facilities for receiving and holding the remains and direct transportation of the remains to the gravesite or crematory. Viewing or visitation and a funeral ceremony are not included.

<u>ITEM</u>	<u>PRICE</u>
1. Removal of remains (within 25 miles)	\$ 25
2. Professional services (direct disposition)	150
3. Use of facilities (direct disposition)	100
4. Cremation container (NOTE: SOME CEMETERIES MAY NOT ACCEPT CERTAIN CONTAINERS FOR BURIAL.)	75
5. Embalming services (NOTE: EMBALMING SERVICES NORMALLY ARE NOT REQUIRED IF THE BURIAL OR CREMATION IS LESS THAN 24 HOURS AFTER DEATH. HOWEVER, EMBALMING OR REFRIGERATION OF THE REMAINS IS NECESSARY IF BURIAL OR CREMATION WILL BE 24 HOURS OR MORE AFTER DEATH.)	125
6. Direct transportation to crematory/cemetery	<u>25</u>

TOTAL (including selected casket or container):

THE FUNERAL DIRECTOR WILL TELL YOU ABOUT THE PRICES FOR OTHER MERCHANDISE AND SERVICES. THIS PRICE LIST DOES NOT INCLUDE CEMETERY OR CREMATORY CHARGES OR CHARGES FOR GRAVE MARKERS, FLOWERS, NEWSPAPER NOTICES OR OTHER ITEMS PURCHASED FROM OTHER SOURCES WHICH YOU MAY ORDER THROUGH THIS FUNERAL HOME.

ABC FUNERAL HOME  
 100 Main Street  
 Florence, Arizona 85000  
 Telephone: (602)123-4567

FUNERAL SERVICES PRICE LIST

Traditional Funeral Charges:

ABC Funeral Home charges the following prices for a traditional funeral service. A traditional funeral service includes embalming and related preparation (cosmetic, dressing and casketing services) of the remains, full professional services and use of funeral home facilities for viewing or visitation and the funeral ceremony and formal vehicle transportation to the gravesite.

<u>ITEM</u>	<u>PRICE</u>
1. Removal of remains (within Pinal County)	\$ 25
2. Embalming services	125
3. Professional services	200
4. Use of facilities (including two visitation days and funeral ceremony)	100
5. Funeral hearse (within Pinal County)	25
6. Each limousine (within Pinal County)	25
7. Caskets are available for sale from \$200 to \$5,000	<u>200</u>

TOTAL (including selected casket):

Direct Burial or Cremation Charges:

ABC Funeral Home charges the following prices for direct burials or cremations. Direct burial or cremation includes professional services and use of funeral home facilities for receiving and holding the remains and direct transportation of the remains to the gravesite or crematory. Viewing or visitation and a funeral ceremony are not included.

<u>ITEM</u>	<u>PRICE</u>
1. Removal of remains (within Pinal County)	\$ 25
2. Professional services (direct disposition)	125
3. Use of facilities (direct disposition)	50
4. Cremation container (NOTE: SOME CEMETERIES MAY NOT ACCEPT CERTAIN CONTAINERS FOR BURIAL.)	50
5. Refrigeration services (NOTE: EMBALMING SERVICES NORMALLY ARE NOT REQUIRED IF THE BURIAL OR CREMATION IS LESS THAN 24 HOURS AFTER DEATH. HOWEVER, EMBALMING OR REFRIGERATION OF THE REMAINS IS NECESSARY IF BURIAL OR CREMATION WILL BE 24 HOURS OR MORE AFTER DEATH.)	125
6. Direct transportation to crematory/cemetery	<u>25</u>

TOTAL (including selected casket or container):

THE FUNERAL DIRECTOR WILL TELL YOU ABOUT THE PRICES FOR OTHER MERCHANDISE AND SERVICES. THIS PRICE LIST DOES NOT INCLUDE CEMETERY OR CREMATORY CHARGES OR CHARGES FOR GRAVE MARKERS, FLOWERS, NEWSPAPER NOTICES OR OTHER ITEMS PURCHASED FROM OTHER SOURCES WHICH YOU MAY ORDER THROUGH THIS FUNERAL HOME.