

Facts About Funeral and Cemetery Arrangements Consumer Information

Oregon Mortuary and Cemetery Board
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The mission of the Oregon Mortuary and Cemetery Board is to protect the public health, safety and welfare by fairly and efficiently performing its licensing, inspection and enforcement duties; by promoting professional behavior and standards in all facets of the Oregon death care industry; and, by maintaining constructive relationships with licensees, those they serve and others with an interest in the Board's activities.

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The Oregon Mortuary and Cemetery Board (Board)

It is the Board's responsibility to license and regulate the practice of individuals and establishments engaged in the sale of funeral and cemetery goods and services as well as the care, preparation, processing, transportation and final disposition of human remains. The Board's licensees include funeral service practitioners, embalmers, apprentices, preneed sales people, death care consultants, funeral establishments, immediate disposition companies, cemeteries and crematories.

Pursuant to ORS 692.180 and 692.320, the Board must conduct facility inspections and investigate complaints. In accordance with the Administrative Procedures Act, the Board may take disciplinary action for violations of legal authorities within its jurisdiction.

The Board protects the public by promoting and enforcing compliance with the statutes and rules established for that purpose and also has a statutory mandate to conduct criminal background checks on a variety of individual license applicants and on the principals of licensed facilities. Although lacking authority to require payment of compensatory (actual) damages to consumers, the Board may impose civil penalties up to \$1,000 per violation and it may negotiate voluntary settlement agreements that provide restitution in lieu of civil penalties.

Methods of final disposition in Oregon

Human remains may be buried (land or sea), entombed, cremated or shipped out of the State.

Embalming

Embalming is the use of chemicals, internally and externally, to disinfect and temporarily preserve human remains.

Is embalming of human remains required by law?

No. Oregon law requires that human remains held longer than twenty-four hours after death, be either embalmed or refrigerated at 36° Fahrenheit or less. The person with the right to control disposition (pursuant to ORS 97.130) must request and authorize embalming prior to the procedure. Un-embalmed remains may be removed from refrigeration for up to six hours, so embalming is not required for public viewing if completed within the six-hour limit. However, public viewing of the remains of persons who have died of certain communicable diseases is prohibited, unless the remains are embalmed. Human remains may be transported after twenty-four hours of death without being embalmed if the transfer is within the six-hour time limit or if they are placed in a sealed casket. However, human remains dead of specific communicable diseases may only be transported if they are embalmed or placed in a sealed casket.

Obtaining information about funeral costs

Funeral establishments are required by the Federal Trade Commission and Oregon law to provide price information over the telephone. For at need and preneed inquiries in person, funeral establishments are mandated by law to provide the consumer with a copy of the General Price List (GPL) for their retention, **prior** to any discussion about arrangements for final disposition. All funeral establishments are required to have a GPL.

The GPL must indicate the business name, address, telephone number and effective date. The GPL must include itemized costs of the funeral goods and services offered for sale by a funeral establishment. The GPL, at minimum, must specify prices for the following items; provided they are available for purchase through the funeral home [packages of funeral goods and services may be included in addition to these items]:

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

If the price of each casket or outer burial container is not listed on the General Price List, separate price lists for caskets and outer burial containers are required. These lists must be made available for consumer review prior to viewing / selecting merchandise, but, unlike the GPL, do not have to be given for their retention.

Are prices regulated?

Costs of cemetery, crematory, or funeral services and merchandise are not regulated by the State or Federal Trade Commission.

Consumers will be charged only for the goods and services selected. However, any funeral arrangements selected will include a "basic services fee" for the funeral provider's described services and overhead. If legal or other requirements

mean a consumer must buy certain items, the funeral provider must explain those charges on the statement describing the funeral goods and services selected by the purchaser. Consumers must receive an itemized statement of the goods and services selected at the conclusion of an in-person arrangements conference. This statement allows consumers to evaluate their selections and make any desired changes at that time, or later if additional time for consideration is necessary.

The Board encourages consumers to ask questions concerning the prices of funeral and cemetery goods and service. Prices vary between establishments and informed decisions can be made regarding purchases through cost comparisons of death care businesses.

Cemetery goods and services

Cemetery goods include a right of interment in a grave, crypt or niche. Other goods or services charges generally consist of items such as: opening and closing of the grave, crypt or niche, an outer burial container such as a vault or liner, marker, a second right of interment fee if applicable, as well as other recording fees. These items are not required by State law; however, cemeteries have the authority by Statute to develop rules and policies for the operation of the cemetery. ORS 97.710

Preplanning and prepaying for final disposition

Funeral and burial arrangements may be conducted prior to death. Preplanning final disposition can afford families the opportunity to make arrangements in a less stressful environment.

Consumers should inquire whether a preneed contract is "guaranteed" or "non-guaranteed." A guaranteed contract provides that goods and services contained in the contract shall not require additional charges for those items at the time of death. Non-guaranteed contracts provide that goods and services contained in the contract will be provided, but may require additional charges for those items at the time of need.

Funeral establishments or cemeteries that offer trusts as a method of funding preplanned arrangements are required to make annual financial reports to the Oregon State Department of Consumer and Business Services, Finance & Corporate Securities Division. These mandatory reports ensure the trust funds are properly trusted with a financial institution. Consumers may cancel trusts prior to death. ORS 97.943(8)

Funeral establishments or cemeteries also may offer insurance policies as a funding mechanism for preplanned arrangements. These insurance policies are regulated through the Oregon State Department of Consumer and Business Services, Insurance Division.

What is meant by immediate disposition?

Immediate disposition consists of the disposition of remains by "direct cremation" or "immediate burial." Immediate burial is the disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present, except for a graveside service. Direct cremation is the disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present. Memorial services may be held at a later date.

Immediate disposition options are included in the GPL. The charges generally include the initial arrangements conference, transferring the remains from the place of death to a licensed establishment, preparing authorizations, completing and filing the death certificate and authorization for final disposition. Consumers may provide their own casket or alternative container, select an option with a minimum casket or alternative container offered by the establishment or choose an option with other available caskets or alternative containers.

Even though the term "immediate" is used, Oregon law requires authorization for final disposition from the medical provider who is responsible for certifying the cause of death. The certification process usually takes at least a day or two to complete, so final disposition will not occur "immediately."

Is it legal to bury human remains on private property?

Oregon law allows private property burial if certain conditions are met: you are the owner of the property or you have consent of all the owners of the property; you have contacted the local planning commission in your area and you have met their requirements for land use, if any; and have their written consent; you agree to maintain accurate, permanent records of the burial; and, you agree to disclose the burial upon sale of the property. ORS 97.460

Selecting a Casket or Other Funeral Merchandise

Caskets and other funeral merchandise are not required by law. However caskets and outer burial receptacles may be required by the cemetery. The law does not require caskets for cremation although some type of rigid alternative container comprised of heavy cardboard, pressboard or wood is generally necessary. Regular caskets may be purchased for cremation if a consumer elects that option. Crematoriums in Oregon usually require a rigid container for ease of handling the remains and placing them into the cremation chamber. Consumers should inquire about the policies of the selected facility.

Caskets range in price. They are constructed from various materials including steel, copper, bronze, and wood. The only warranties express or implied, granted in connection with casket products are the express written warranties, if any,

extended by the manufacturers thereof. There is not any direct relationship between the protective features of a casket and the preservation of the body.

Caskets and alternative containers do not have to be purchased directly from a funeral establishment and are available from a variety of sources. There are no regulatory requirements pertaining to caskets. Some families have designed and constructed caskets or alternative containers. Funeral establishments should never refuse service to a family because it indicates it will be using a third party casket. The law prohibits funeral homes from charging any type of handling fee if a third party casket is used.

If I have a complaint against a funeral director, embalmer, preneed salesperson, death care consultant, funeral home, cemetery, or crematory, whom should I contact?

The Board encourages consumers to first discuss problems with the management of the facility. Management should be given the opportunity to address the issue(s) and expeditiously develop an appropriate resolution.

Consumers may call the Board office to discuss their complaint(s). Compliance staff will explain the Board's jurisdiction, outline the complaint process and provide a complaint form if requested. Complaints are investigated by Board investigators and an investigative report with sufficient evidence to affirm or refute the allegation(s) is submitted to the Board. Board Members consider each investigative case in a closed executive session and determine whether a violation of Oregon Statutes or Rules has occurred. Violation of Statutes or Rules may result in disciplinary action in accordance with the Administrative Procedures Act. ORS 183.413 - 183.497

ORS 676.175 outlines the confidentiality of investigative information. Notices of proposed disciplinary action and final orders are public information. Investigative information and disciplinary action may not be used as evidence in any civil proceeding unless it is between the Board and the respondent.

The powers and duties of the Board are set forth in Oregon Revised Statutes Chapter 692 and Oregon Administrative Rules Chapter 830. The Board also enforces a number of other Statutes and Rules pertaining to the death care industry.

For additional information regarding Oregon's funeral and cemetery laws, final disposition, licensing requirements or other death care industry questions, please call the Board office.

A list of the Board's licensees, Oregon Revised Statutes, Administrative Rules and agencies are accessible on the Oregon State Website: www.oregon.gov/mortcen

Inquiries may be emailed to: mortuary.board@state.or.us