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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (Heading of Division 3 added by Stats. 1939, Ch. 30.)

CHAPTER 12. Cemetery and Funeral Act [7600 - 7746] (Heading of Chapter 12 amended by Stats. 2015, Ch. 395, Sec. 3.)

ARTICLE 5.5. Funeral Practices [7685 - 7685.6] (Article 5.5 added by Stats. 1971, Ch. 1027.)

7685. (a) (1) Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to, the price for professional services offered, that may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated. The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale.

(2) The list shall also include a statement indicating that the survivor of the deceased who is handling the funeral arrangements, or the responsible party, is entitled to receive, before the drafting of any contract, a copy of any preneed agreement that has been signed and paid for, in full or in part, by or on behalf of the deceased, and that is in the possession of the funeral establishment.

(3) The funeral director shall also provide a written statement or list that, at a minimum, specifically identifies a particular casket or caskets by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, when a request for specific information on a casket or caskets is made in person by an individual. Prices of caskets and other identifying features such as thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements required to be given over the telephone by Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, shall be provided over the telephone, if requested.

(b) (1) Each licensed funeral establishment that maintains an Internet Web site shall post on its Internet Web site the list of funeral goods and services that are required to be included in the establishment's general price list, pursuant to federal rule, and a statement that the general price list is available upon request.

(2) Information posted pursuant to paragraph (1) shall be provided by a link from the Internet Web site homepage with a word or combination of words, including, but not limited to, "goods," "merchandise," "products," or "services."

(3) An establishment that posts on its Internet Web site homepage the words "price information" or a similar phrase that includes the word "price," with a link that leads to the establishment's general price list, need not comply with paragraphs (1) or (2).

(4) This subdivision shall not be construed to affect an establishment's obligations under federal or state law effective before January 1, 2013.

(5) This subdivision shall become operative on January 1, 2013.

(Amended by Stats. 2016, Ch. 86, Sec. 13. (SB 1171) Effective January 1, 2017.)

7685.1. (a) The funeral director shall in a conspicuous manner place the price on each casket. Individual price tags on caskets shall include the thickness of metal, or type of wood, or other construction, as applicable, in addition to interior and color information. Each casket shall be priced individually, irrespective of the type of service purchased. If a funeral director advertises a funeral service for a stated amount, he or she shall display in a reasonably convenient location in the showroom and have available for sale, any casket which is used for determining that price.

(b) No funeral director shall charge the survivor of the deceased who is handling the funeral or burial arrangements or the responsible party a handling fee for a casket supplied by the survivor or responsible party.

(c) No funeral director or embalmer shall charge any additional fee for handling or embalming a body when death was due to a contagious or infectious disease.

(Amended by Stats. 1992, Ch. 797, Sec. 2. Effective January 1, 1993.)

7685.2. (a) No funeral director shall enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains and the person who is contracting for the cremation services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains. The form shall be signed and dated by the person arranging for the cremation and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation service.

(c) A funeral director entering into a contract to furnish cremation services shall provide to the purchaser of cremation services, either on the first page of the contract for cremation services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains may remove the remains in a durable container from the place of cremation or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container cannot accommodate all cremated remains of the deceased, the crematory shall provide a larger cremated remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

(d) This section shall remain in effect only until July 1, 2020, and as of that date is repealed.

(Amended by Stats. 2017, Ch. 846, Sec. 23. (AB 967) Effective January 1, 2018. Repealed as of July 1, 2020, by its own provisions. See later operative version added by Stats. 2017, Ch. 846.)

7685.2. (a) A funeral director shall not enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery, crematory, or hydrolysis facility charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation or hydrolysis and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains or hydrolyzed human remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains or hydrolyzed human remains and the person who is contracting for the cremation or hydrolysis services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium or hydrolysis facility; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains or hydrolyzed human remains. The form shall be signed and dated by the person arranging for the cremation or hydrolysis and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation or hydrolysis service.

(c) A funeral director entering into a contract to furnish cremation or hydrolysis services shall provide to the purchaser of cremation or hydrolysis services, either on the first page of the contract for cremation or hydrolysis services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains or hydrolyzed human remains may remove the remains in a durable container from the place of cremation, hydrolysis, or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container or hydrolyzed human remains container cannot accommodate all cremated remains or hydrolyzed human remains of the deceased, the crematory or hydrolysis facility shall provide a larger cremated remains container or hydrolyzed human remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

(d) This section shall become operative on July 1, 2020.

(Amended (as added by Stats. 2017, Ch. 846, Sec. 24) by Stats. 2018, Ch. 92, Sec. 11. (SB 1289) Effective January 1, 2019. Section operative July 1, 2020, by its own provisions.)

7685.3. The current address, telephone number, and name of the Department of Consumer Affairs, Cemetery and Funeral Bureau shall appear on the first page of any contract for goods and services offered by a licensee. At a minimum, the information shall be in 8-point boldface type and make this statement:

"FOR MORE INFORMATION ON FUNERAL, CEMETERY, AND CREMATION MATTERS, CONTACT: DEPARTMENT OF CONSUMER AFFAIRS, CEMETERY AND FUNERAL BUREAU (ADDRESS), (TELEPHONE NUMBER)."

(Amended by Stats. 2015, Ch. 395, Sec. 21. (AB 180) Effective January 1, 2016.)

7685.5. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A licensee shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

(c) Prior to the drafting of a contract for services, the licensee shall provide, for retention, the consumer with a copy of the consumer guide for funeral and cemetery purchases described in subdivisions (a) and (b).

(Amended by Stats. 2015, Ch. 395, Sec. 22. (AB 180) Effective January 1, 2016.)

7685.6. (a) Every funeral establishment, prior to drafting any contract for funeral goods or services, shall present to the survivor of the deceased who is handling the funeral arrangements, or the responsible party, a statement disclosing whether or not the funeral establishment has any preneed agreement made by or on behalf of the deceased. If the funeral establishment has a preneed agreement made by or on behalf of the deceased, the statement shall also declare the establishment's compliance with Section 7745. The disclosure statement shall be signed and dated by the representative of the funeral establishment and by the survivor or responsible party. The completed disclosure statement shall be retained by the funeral establishment for a period of time determined by the bureau, and a copy shall be given to the survivor or responsible party.

(b) The bureau shall develop a form, in consultation with the funeral industry and any other interested parties, that is separate and distinct from other forms, upon which the disclosure statement shall be made. The bureau shall make the form available to funeral establishments for purposes of reproduction and distribution, and the form shall also be available electronically through the Internet. The form shall be simple and easy to read and shall include all of the following:

(1) The definition of a preneed arrangement, adopted by the bureau by regulation.

(2) A statement of the funeral establishment's responsibilities under Section 7745.

(3) Information about how the consumer may contact the bureau for more information or how to file a complaint against a licensee.

(c) A violation of this section constitutes grounds for disciplinary action.

(d) This section shall become operative July 1, 2002.

(Added by Stats. 2001, Ch. 715, Sec. 3. Effective January 1, 2002. Section operative July 1, 2002, by its own provisions.)