

Office of the Auditor General  
Debra K. Davenport  
2910 N. 44<sup>th</sup> Street Suite 410  
Phoenix Arizona 95018

April 28, 2003

Dear Ms. Davenport,

Pursuant to the Auditor General's findings and recommendations, the Arizona State Board of Funeral Directors and Embalmers submit the attached responses for your review. The conduct and professionalism displayed by representatives of your agency is to be commended. The Board appreciates the consideration given in terms of down time and minimum loss of consumer service provided by your staff. The Arizona State Board of Funeral Directors and Embalmers ultimate goal is to provide the best possible service to residents of this state. The audit performed by your staff will assist in creating a more effective and efficient agency benefiting both consumer and licensee alike.

Sincerely,

Rodolfo R. Thomas  
Executive Director

## **AUDITOR GENERAL FINDING 1**

### **Recommendation 1**

Improvements needed in inspection process

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Agency Response: The finding of the Auditor General is agreed to and the findings will be implemented.

Voluntary compliance and education of licensees is the Boards goal. The increase in the number of inspections should facilitate these efforts.

Statutory guidelines mandate the inspection of all funeral establishments and crematories at least once every five years. In July of 2000 an Inspector was appropriated and the effort to provide consumers with optimum funeral services began. Prior inspections though sporadic, provided an experimental base of which to improve upon. The Board has developed a detailed checklist, which precludes guesswork by the inspector ensuring that every area of compliance is evaluated. This initial modified form will be continually revised to meet the recommendations of the Auditor General' Office. The inspecting official while utilizing the modified checklist will be required to take closer visual inspection and not rely on the responses of the licensee. Documentation randomly gathered by the inspector will be scrutinized for accuracy, authorization and compliance. The General Price List and Statement of Goods and Services shall be reviewed for containment of necessary disclosures and accurate pricing as indicated in the modified checklist. A compliance/inspection guideline has been created with procedures that are synergetic to the checklist in an effort to identify deficiencies and protect consumers. The checklist is to be utilized on every inspection per established guidelines. Modifications of the checklist and guidelines will be made accordingly and reflect continuity and directions for the compliance administrator. This initial form will also be revised and updated to ensure effectiveness and efficiency in this area.

## **AUDITOR GENERAL FINDING 1**

**Recommendation 2** - The Board should adopt an administrative rule that defines a standard for whether an establishment is in compliance at the end of an inspection.

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Agency Response: The finding of the Auditor General is agreed to and the findings will be implemented.

The Board's notice of proposed rulemaking was February 28, 2003. This provides an excellent opportunity for revisions concerning the standard for establishment compliance upon conclusion of an inspection. The modified rating system and Compliance Checklist should enhance the

standard for determining whether an establishment is in compliance after an inspection. The inclusion of this finding shall be applied to the rule making process

#### **AUDITOR GENERAL FINDING 1**

**Recommendation 3** – The Board should implement a rating system that is understandable to consumers and describes the violations of funeral establishments, and adopt this system in administrative rule.

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Agency Response: The finding of the Auditor General is agreed to and the findings will be implemented.

The Board has included in the checklist six areas of concern and the maximum achievable percentage rating obtained through evaluation by the inspector. One hundred is the maximum amount of percentile that an establishment may obtain. Through visual inspection, deficiencies found by the inspector will be documented on the checklist. Each deficiency will create a negative adjustment to the total score for each establishment. The Board will determine the methodology for the rating system and advise all licensees. After determination by the Board of the rating system, the licensee will be advised of passing or failure of the inspection. The computerized compliance tracking system additionally provides space for a description of any violations or deficiencies and the date corrections made. Lastly, the licensee is also notified in writing of violations and when corrections are acceptable. The inclusion of this finding shall be applied during the rule making process.

#### **AUDITOR GENERAL FINDING 1**

**Recommendation 4** – The Board should develop administrative rules and procedures that govern the inspection follow-up process.

Agency Response: The finding of the Auditor general is agreed to and the findings will be implemented.

The Board has created guidelines for time frames for correcting deficiencies, normally thirty days. The circumstances under which the Board may open a complaint against an establishment in order to take disciplinary action as the result of an inspection are additionally included in guidelines. Board has included many of the guidelines provided in A.R.S. 41-0009 as a template in obtaining the best results from inspections. The inclusion of these findings shall be applied during the rule making process.

### **AUDITOR GENERAL FINDING 1**

**Recommendation 5** – The Board should implement a system for tracking the results of compliance inspections.

Agency Response: The finding of the Auditor General is agreed to and the finding will be implemented.

The Board has created a system for monitoring the results of inspections. The program recently implemented and installed on the Funeral Board database monitors discrepancies and contains pertinent dates. Additional information such as the date of corrections and method of verifying corrections is provided in the system. The inspection data also indicates status of an inspection including the percentage obtained as a result of the inspection. Lastly, included in the system is a means of obtaining the results of all compliance visits by indicating time parameters of compliance visits conducted. Again, time frames and Board rules for disciplinary action will be included in rules.

### **AUDITOR GENERAL FINDING 1**

**Recommendation 6** – The Board should make inspection results available to the public via the telephone and inform the public about the availability of this information through its consumer brochure. If resources are available, the Board should also make results available on its Web site or at establishments.

Agency Response: The finding of the Auditor General is agreed to and the finding will be implemented.

The programming utilized for monitoring compliance/inspections results for the two years of enhanced inspections was in developmental stages and subsequent recommendation provided by the evaluation of the Auditor Generals Office has been implemented. The brochure has been modified to include the statement “Additionally, establishment complaint history and inspection results can be obtained by contacting this office”. Future brochures will inform the public of these services and will be distributed immediately. Relative to providing this information on the Web site, current resources preclude the Board from implementing this recommendation at this time. However, in the future when appropriations become available, the recommendation of including this consumer information on the Web site will be considered.

**AUDITOR GENERAL FINDING 2**

**Recommendation 1** – Board should ensure that staff follow established procedures for complaint handling.

Agency Response: The finding of the Auditor General is agreed to and the recommendations will be implemented.

The Board has in the past stressed the importance of having a State Board Complaint Form completed and forwarded by the complainant. Additionally, the Board has previously received complaints written on stationary other than Board Complaint forms and processed the complaint without receipt of official forms. This practice was not intended to discourage or hamper the process but provide all pertinent documentation required in the completion of a thorough investigation. In these instances, an official complaint form was mailed to the complainant while the investigation continued. This Board will investigate and forward all complaints to the Board for disposition. Additionally, procedures and guidelines for complaint investigations has been revised and implemented based upon Auditor General recommendations. These procedures will be continually updated and revised to ensure that all recommendations by the Auditor General are completed. Included in the procedures are guidelines for ensuring that all complaints will be forwarded to the Board for disposition.

**AUDITOR GENERAL FINDING 2**

**RECOMMENDATION 2** - The Board should further develop its complaint investigation procedures to instruct and guide staff in preparing complete investigations for the Board’s review, and the Board should ensure that staff follow the procedures.

Agency Response: The finding of the Auditor General is agreed to and the recommendations will be implemented in sub-category 2 (a).

The Auditor General finding indicates that the Board should identify all potential violations. This Board has always attempted to review and provide all possible violations for disposition by Board. The Board will place additional emphasis on determining the possible violations for all disciplinary phrases of the investigation.

Agency Response: The finding of the Auditor General is agreed to and the recommendation will be implemented in sub-category 2(b).

The Auditor General's finding recommended that the Board should determine whether the investigation has supported complaint allegations. The Board agrees with the finding in so much as staff should support all allegations. However, the Board should make its own determination on the merits of each complaint and not be tainted or prejudiced by the staff investigative response. The Board's concern is that complaints identified as being substantiated by staff will impede with the process and further taint the Board's disposition. The Board investigative staff as indicated previously shall provide all potential violations and conduct a thorough investigation for final disposition by Board members. All allegations will be supported with proper documentation.

Agency Response: 2 © The finding of the Auditor General is agreed to and the recommendation will be implemented.

The Auditor General Finding recommends that the Board take witnesses statements during interviews. The Board has in fact taken witness statements during interviews however not specifically indicated as such in the report. The procedures now included in the investigation guidelines mandate interviews and statements be included in the report and have been additionally noted on correspondence to both complainants and licensee.

Agency Response: 2(d) The findings of the Auditor General is agreed to and the recommendation will be implemented.

The Board shall include in the investigations, case file management notes and any other fragments or written material contributing directly or indirectly to the case. Additionally, complaint history will be provided for Board review. The investigative guidelines also include the procedures to be followed. The Board has and will always utilize subpoenas powers for investigative processes and these guidelines as with previously mentioned procedures shall be revised and updated to meet recommendations stated by the Auditor General's Office.

## **AUDITOR GENERAL FINDING SUNSET FACTORS**

**RECOMMENDATION 9** - The requirement for a new establishment to contain a preparation room creates a barrier and unnecessarily creates increased costs to the consumer.

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Agency Response: The finding of the Auditor General is not agreed with and the agency will not implement or seek to implement any changes in this requirement.

The core purpose of a funeral establishment license in the State of Arizona is to provide to the consumer offerings of their choice as to the disposition of a loved one. It is a reasonable assumption of a consumer that an establishment can provide to them a full choice of offerings concerning their care.

The requirement of a functioning preparation room is both reasonable and necessary in providing this care. If a body is prepared at a sight away from the establishment and a problem occurs with

the body, it is reasonable to expect that a consumer could have that problem resolved in a timely manner. It would not be in public health interests to not have the necessary equipment and area to perform these procedures on sight and immediately. It is a requirement that each establishment employ a licensed responsible funeral director to comply with statutes and rules that apply to the industry of both federal and state laws. In the State of Arizona a licensed funeral director must also be a licensed embalmer.

Statutes at this time do not require that these embalming facilities be used but that they must be functional and operative. Many establishments in the state utilize service centers where they centralize preparation procedures. In our findings these centralized preparation facilities do not reduce the cost to the consumer. In fact the opposite may be the case. The cases stated in the findings of the Auditor General's report in both Maricopa County and Tucson have some of the highest costs for these professional services to the consumer yet the economies of scale would suggest the opposite.

A chain of custody is necessary to determine if a licensee is complying with not only our statutes and rules, but also the requirements of many governmental agencies. Some of these agencies include EPA and OSHA. They include the tracking of hazardous waste and the use of protective equipment that both protect the individual and the consuming public.

In the State of Arizona over 50 percent of the dispositions is cremation. This does not preclude a consumer from desiring services that require embalming. A large percentage of the deaths in our state are shipped to a decedent's state of residence. Embalming in these cases is almost always required for shipping purposes. Embalming and the ability to embalm at a funeral establishment is a fundamental requirement for licensure.

The analogy may be used that when a consumer enters a restaurant for service he assumes that the licensed restaurant has a kitchen and that the kitchen is inspected and functional. He may order only a salad and not anything from the grill or oven yet it is reasonable to expect that those services are available if desired. The costs attributable to the cost of the menu items have more to do with location, size, décor, ambiance and other factors than the size and functionality of the kitchen.

As to an agency we feel that the statutes and rules that we have provide a reasonable and functional way to protect and serve the consumers of this state. We support the way requirements are now constituted. The three or four other states that have different requirements do not necessarily reflect the needs and practices that this state mandates to protect its consumers and licensees.