

## REPORT HIGHLIGHTS

### PERFORMANCE AUDIT

#### Subject

Funerals are typically expensive transactions that consumers often must make on short notice and during a time of emotional distress. The Board of Funeral Directors and Embalmers and its four-person staff are responsible for enforcing state laws designed to protect consumers during these transactions.

#### Our Conclusion

Although the Board performs an important role in protecting consumers, the Board can do more. The Board should improve procedures used for inspecting funeral establishments and implement a rating system. The Board should also strengthen its staff's complaint handling and investigations.



2003

## Board of Funeral Directors and Embalmers

### Better Inspection Process Needed

Arizona's statutes and rules are among the strongest when it comes to protecting consumers from deceptive and misleading funeral business practices, and ensuring funeral establishments provide consumers with the information necessary to make informed decisions. To help ensure compliance with these statutes and to ensure worker safety, the Board regularly inspects funeral establishments. While statute requires the Board to inspect each establishment once every 5 years, the Board exceeds this requirement by inspecting nearly all establishments at least once a year.

#### Board inspections should:

- Verify that employees' licenses are appropriately displayed
- Ensure that the display and pricing of goods and services are not deceptive or misleading
- Confirm that consumers are informed that embalming is not required
- Ensure establishments' general price lists contain items required by law
- Ensure prearranged funeral sales agreements include required information
- Check that embalming preparation rooms are properly equipped and are sanitary



#### Inspection improvements needed

The Board needs to improve its inspections procedures, develop a system for rating the results of inspections, and improve followup.

#### More thorough process needed—

Although the board inspectors use a checklist, they do not conduct inspections thoroughly. For example, in the seven inspections auditors observed, the inspector often relied on the funeral director's word that the establishment was in compliance with different requirements. However, in one of these instances auditors observed that an establishment was not fully in compliance. The inspector should consistently check displays and pricing materials, obtain copies of relevant policies and forms, and review a small sample of the establishments' files.

**Rating system needed—**The Board lacks a rating system for determining whether an establishment passes or fails an inspection.

A rating system would assist both the Board and consumers. It should be easy

to understand and permit a comparison among establishments. One such system adopted by the Maryland Board of Morticians has a simple yes/no determination at the end of the inspection report indicating compliance or noncompliance. A pass or fail grade would provide the same kind of rating.

**Follow-up process needed**—The Board also has no written guidelines for following up on inspections that find noncompliance. Such guidelines should include time frames for the establishment to come

into compliance and provide for possible board action for failure to do so.

## Making inspection results public

Providing the public with inspection results could help consumers make informed decisions about funeral arrangements. The Board should make this information available to the public over the telephone and also consider posting it on the Board's Web site. Also, the Board could seek a legislative change to require funeral establishments to post the results.

## Recommendations

The Board should:

- Use more rigorous procedures for the inspection process.
- Implement a rating system for inspection results.
- Develop guidelines for follow-up procedures.
- Make inspection results available to the public.

## Improve Investigations and Complaints

Statute requires the Board to investigate written complaints involving potential violations of funeral law. The Board received 12 complaints on its complaint form in fiscal year 2002. Most complaints allege that a funeral establishment treated a consumer insensitively or was not responsive to a consumer's particular needs regarding funeral arrangements.

The Board has established procedures to investigate written complaints. After considering an investigation, the Board may:

- Dismiss the complaint if there is no violation
- Schedule an informal interview if discipline may be appropriate
- Schedule a formal hearing if the violation is more serious

The Board usually decides to conduct an informal interview. After the interview, the Board may take one or more disciplinary actions including issuing a letter of censure, placing the licensee on probation, and assessing civil monetary penalties.

In FY 2002, the Board resolved nine complaints. The Board:

- Dismissed four of these complaints,
- Issued a letter of concern for one, and
- Imposed discipline in four cases.

The Board takes an average of 144 days to resolve a complaint—within the 180-day standard we use for measuring complaint-handling timelines.

## Not all written complaints reach the Board

Some consumer concerns never reach the Board. Board staff may discourage some consumers from filing complaints by often waiting to open investigations until consumers who write a letter of complaint resubmit the complaint on the Board's form. This acts as an impediment to consumers, some of whom do not return the board form.

A more serious concern is that board staff never forward some complaints to the Board for consideration. In one case, staff dropped a complaint after the funeral establishment provided compensation to the consumer. While this satisfied the particular consumer, it did not allow the Board to take action to protect future consumers. In two other cases, someone other than the person who contracted with the establishment filed a complaint, but staff did not forward the complaints to the Board. Regardless of who files a com-

plaint, staff should forward the complaint to the Board so it can decide if a violation occurred and discipline is warranted.

## Investigations need improvement

The Board staff's investigations are incomplete and do not provide sufficient information for the Board to efficiently resolve the complaint. The Board spends significant time during meetings gathering complaint information that staff should have obtained prior to the meetings. To ensure that staff conduct complete investigations, the Board should ensure that staff:

- Identify all potential violations contained in the complaint.
- Indicate whether the investigation supported the complaint.
- Interview witnesses and take statements.
- Ensure that funeral establishments provide all the documents requested during the investigation.

## Recommendations

The Board should:

- Instruct staff to open investigations upon receiving any written complaints, regardless of whether the consumer uses the Board's complaint form.
- Ensure staff forward all complaints to the Board for resolution.
- Ensure staff complete all the steps needed to provide the Board with complete investigations.

## Other Issues Involving Cemeteries and Embalming Rooms

We also developed information on two other regulatory issues—cemetery regulation, and what appears to be an outdated requirement for every funeral establishment to have an embalming preparation room.

### Cemetery regulation

The Board has no authority over cemeteries, so it refers the 10 to 15 complaints it receives each year to the Department of Real Estate. The Department is the only

state agency with statutory authority over cemetery matters, but it has only limited jurisdiction.

## Embalming preparation room requirement not needed

Statutes require each licensed funeral establishment to have an embalming preparation room. This requirement, which dates back to the creation of the Board in 1945, is costly and does not reflect changes in today's funeral industry. Many funeral homes are now part of larger corporations that use more centralized embalming operations. For example, one corporation owns 24 funeral establishments in Phoenix, but embalms at only 5 locations. However, each of the 24 establishments is required by current state law to maintain an embalming room.

Further, because embalming rooms can cost between \$10,000 and \$35,000 for equipment and space, the requirement may constitute a barrier for new companies to enter the market. The cost for the embalming rooms is also a cost that must be passed on to consumers. At least eight other states do not require an embalming preparation room in each establishment. Some require only that a funeral establishment have access to an embalming room. Such a requirement would be similar to Arizona's requirement for hearses, in which funeral establishments must have access to a hearse, but do not need to own one.

### Cemetery Regulation:

- Real Estate regulates 39 of the State's 100 cemeteries
- Religiously affiliated, municipal, and fraternal organization cemeteries are exempt from regulation
- Real Estate licenses brokers and salespersons, and audits trust funds for the perpetual upkeep of cemeteries
- Real Estate does not regulate the provision of goods and services, such as cemetery upkeep or the failure to install cemetery goods such as a grave marker
- Real Estate receives about 10 to 15 cemetery complaints per year

Nationally, the cemetery industry's level of regulation varies from state to state. The United States Federal Trade Commission, which regulates the funeral industry, does not regulate the cemetery industry because it has found that there are relatively few consumer complaints.

### TO OBTAIN MORE INFORMATION

A copy of the full report can be obtained by calling  
**(602) 553-0333**



or by visiting our Web site at:  
[www.auditorgen.state.az.us](http://www.auditorgen.state.az.us)

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### Recommendation

The Legislature should:

- Consider revising the law to require funeral establishments to have access to an embalming preparation room.