



Department of Health

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Acting Commissioner

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Acting Executive Deputy Commissioner

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Dear Funeral Director:

Please be reminded that funeral firms may not over-charge families for the transfer of remains by adding an extra personnel fee for the transfer of the decedent from the place of death, or by adding additional charges based on the type of facility where the death occurred, or for the time of day that the transfer takes place. Most commonly, firms have begun adding separate charges stated on their *General Price List* (GPL) as “second attendant” or “extra staff”, and/or a variable charge for either home deaths, hospice deaths, or nursing home deaths, and “after hour” charges. Applying such charges is a violation of 10 NYCRR § 78 for the reasons stated below.

Although the funeral firm is allowed to set their own charges for the transfer of remains from the place of death to the funeral establishment, in accordance with 10 NYCRR § 79.4(e)(2), the price on the GPL for the transfer of remains must include “personnel, equipment and vehicle” and does not allow for a sliding scale of costs based on the number of personnel involved or the time/place of death. Commonly called the “removal charge”, this charge is required to be listed on the GPL, and as such is subject to certain limitations.

Furthermore, this language is again emphasized in § 78.2 which requires a specific disclosure on the *Itemization of Funeral Services and Merchandise Selected* that the cost of the “Transfer of Remains” is inclusive of “personnel, equipment and vehicle”. Funeral firms which charge for an additional attendant or specify a separate charge for transfers from a residential, hospice, or nursing home setting are in violation of this requirement.

Additionally, 10 NYCRR § 79.4 allows for four separate price “packages” that are permissible on the GPL which must offer a single price wherein the listed cost for the transfer of remains on the GPL must also be included to arrive at the final price of that service for the consumer. A single price on the GPL must be listed for direct cremations¹, direct burials, forwarding remains, and receiving remains, all of which must have the cost of transfer included in the final price. Having a floating cost for the transfer of remains by charging differently based on numbers of personnel, the type of facility where the death occurred, or the time of the death would nullify the rationale behind this requirement.

¹ The following requirements are found at § 79.4(e)(1)(i),(ii) and § 79.4(e)(10)(i),(ii) respectively

Lastly, 10 NYCRR § 79.4(e)(7) specifically states that the GPL must have a separate charge for livery services and is further qualified by 10 NYCRR § 79.4(g) which allows the flat fee for any livery services to only be modified by a mileage charge stated for a specific geographical zone or as a per mile charge for “the transfer of remains or other transportation by livery”²

Funeral firms which have concerns regarding their pricing structure for the transfer of remains are reminded that the occasional or unexpected expenses incurred in such transfers are recoverable in the basic arrangements charge which is set forth in 10 NYCRR § 79.4(e)(4) wherein the regulation specifically states that this GPL charge “shall include the services of the funeral director, other staff, equipment and facilities *to respond to the initial request for service*” (emphasis added.)

Charging variable prices for the transfer of remains defeats the purpose of the law to protect consumers against pricing confusion at a vulnerable time. These laws were created to prevent deceptive practices and ensure that consumers are aware of the true prices for the products and services they are purchasing.

If your funeral firm engages in this practice, you are hereby notified to CEASE and DESIST from offering variable prices for the transfer of remains on the *General Price List* and charging for the same on the *Itemization of Funeral Services and Merchandise Selected*. Failure to cease this practice may compel the Department to serve a Notice of Hearing and Statement of Charges, seeking the imposition of monetary civil penalties and the possible revocation of your Funeral Director’s license.

If you have any questions, please contact the Bureau of Funeral Directing at 518-402-0785 or by email at funeral@health.ny.gov.

Sincerely,

Thomas W. Fuller, Director
Bureau of Funeral Directing
NYS Department of Health

² 10 NYCRR § 79.4(g)