

Plain Talk

From the Funeral Consumers Alliance of Maryland & Environs (FCAME)

Complaints about funeral homes get close examination by Maryland regulatory board

Complaints. We all have them from time to time. But when we complain to government officials, how often are our complaints taken seriously and acted on?

The Maryland Board of Morticians and Funeral Directors asserts they take very seriously every complaint they receive about a funeral establishment or mortician in the state.

That's good, because consumer complaints about morticians and funeral homes in Maryland have been on the increase. Two years ago, 63 complaints were received; last year it was 70. And in August of 2011 alone, more than 20 complaints were received.

Ms. Ruth Ann Arty, investigator/inspector for the Board of Morticians, believes complaints are on the rise "because people are more educated and vigilant now, and not necessarily because funeral establishments are doing more wrong."

When complaints about a mortician or funeral home first are received at the Board's

office in Baltimore, they are noted in a log and filed by date. Copies are given to the Board's investigator/inspector and placed in a packet of materials compiled for the Complaint Committee to review at their next meeting as well as for the 11 members of the Board to review at their next month's meeting.

You're invited to FCAME Annual Meeting Nov. 6

Topics to be discussed: "Are cemeteries endangered?" and "What to consider when selecting a cemetery"

Join us for the FCAME 2011 Annual Meeting on Sunday, November 6, from 2 to 4 P.M. at Cedar Lane Unitarian Universalist Church, 9601 Cedar Lane, Bethesda, MD 20814. We'll meet in the chapel.

Most of the meeting will be devoted to hearing David Goodman, chairman of the Advisory Council to the Office of Cemetery Oversight in Maryland discuss cemetery issues.

There also will be reports from FCAME officers during the meeting.

If there is an immediate problem which concerns the public health, safety or welfare, the investigator/inspector will phone the chair of the Complaint Committee to seek his agreement to proceed, and then will get involved immediately to be able to observe any illegal activity first hand.

"We respond to immediate situations quite often, which usually come in by phone or walk-ins," said Ms. Arty, although most complaints arrive in the mail.

Complaint topics range from preneed contracts to unlicensed practice to unprofessional conduct. Another complaint received periodically is when a body is held from burial or a death certificate is not provided because full payment of a bill has not been received. (Funeral homes are not allowed to defer burials or hold death certificates as a threat when not yet paid, but may pursue nonpayment as a civil issue.)

All complaints received are discussed at the Complaint Committee, which meets a week before the full Board meets.

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Funeral homes in Maryland inspected at least biannually

In Maryland, all funeral establishments are required by law to be inspected at least once every two years. Around a third of the establishments receive an additional visit within 60 days after their routine inspection if there was a problem noted earlier to ensure deficiencies have been corrected.

The Board of Morticians and Funeral Directors currently employs one person whose responsibilities include inspection of all 288 of the funeral establishments in the state.

The investigator/inspector normally arrives unannounced at funeral homes and looks for health and safety problems, including violations of law and regulations of federal entities such as the Environmental Protection Agency, the Occupational Health & Safety Administration, and the Federal Trade Commission, as well as state entities including the Department of Health and Mental Hygiene.

The inspector walks through the facility and looks to see such things as:

- is all equipment clean, safe and in good working order,
- is the physical facility (including the office, viewing room, prep room, casket room, rest room and storage rooms) clean, safe and in good condition, with adequate lighting and proper ventilation,
- is each room being used only for its intended purpose,
- are required licenses, ownership and signage prominently and properly displayed for every funeral service provider working at that facility,
- is the price visible on each casket displayed,
- are chemicals properly labeled and stored,
- are instruments clean and sanitary, and
- are vehicles in good working order and in proper condition.

The inspector also looks at the funeral homes' documentation to see such things as:

- are their General Price List (GPL) and casket price list readily available for consumers,

- does the GPL include all package deals the funeral establishment offers and does it specify what each package includes,
- does paperwork indicate bio-waste is being picked up within 60 days of the date it was generated, and
- are signed contracts (selected at random) for funeral and cremation services, as well as various authorization and certification forms, complete and correct.

If the funeral home offers preneed contracts, the inspector will also audit their preneed records. Two preneed escrow contracts and two preneed insurance-related accounts are selected at random from the establishment's preneed files for audit.

The inspector follows the trail of funds from when they are first deposited (which must happen within 10 days of receipt in a federally-insured account in an FDIC-insured bank), to bank statements showing where those funds are now with record of all interest accrued noted. If any problem is uncovered, the paperwork is copied (as evidence) and more accounts are selected at random for examination.

Problems spotted with preneed accounts are brought to the Preneed Committee of the Board, which meets monthly. The Preneed Committee discusses all matters relating to preneed contracts, and decides when to refer a case to the Complaint Committee for further action.

If any problems are spotted during the health and safety inspection, the establishment is given a set number of days to fix the deficiency before the inspector reports the problem to the Establishment Committee.

"My focus is on helping licensees understand the law and comply with it to protect the public. It's not about catching and punishing. But, some things just need action," said Ms. Ruth Ann Arty, the Board's investigator/inspector.

"I try to cluster inspections by geographic area.

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Complaints about funeral homes examined (continued)

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Every complaint and the action the committee proposes on it are discussed and must be agreed to by the full Board (with advice from the Board's Counsel) in closed session.

The Board is often lenient with first offenses since it feels one of its responsibilities is helping licensees understand the law to attain compliance with it. In addition, "We have to prioritize complaints because of lack of staff time," Ms. Arty explained.

If a complaint is the first instance of a problem, an "education letter" or non-public reprimand may be issued. However, a copy of each decision is kept in complaint files, and subsequent violations may result in more serious consequences.

Complaints received as a result of consumer misunderstanding (such as not knowing that interest earned on a preneed contract goes to the funeral establishment because they've managed the account) are normally closed without any action. However, every case that goes to the Complaint Committee gets discussed; nothing is closed by the Board staff.

The Complaint Committee also reviews cases where funeral establishments have not remedied deficiencies the Board's investigator/inspector first noted during an unannounced inspection.

When the Complaint Committee feels a serious problem exists, decides to open a case and the Board agrees, initial actions can range from asking the investigator to look into the allegation(s), to issuing a subpoena for more information, to referring the matter to a prosecutor in the Attorney General's Office for formal charges.

When a prosecutor is involved, a Case Resolution Conference may be scheduled which will be attended by the respondent(s) and a panel of Board members. In a CRC, the Board will typically assert they can prove a charge and ask the mortician or funeral home respondent to agree to a pre-charge consent order without formal charges being made. Pre-charge consent orders are more efficient overall as they cut down on investigative time,

the need to call witnesses (who may still be grieving), and the time and legal fees associated with formal court hearings.

The Public Orders posted on the Board's website suggest that the majority of serious problems are uncovered by the inspector vs. being first reported in a complaint. Only one complaint in 2010 led to Public Orders being issued which specified suspensions for both a mortician and the funeral home she operated. Six other suspensions were issued last year, plus there were three one-year probations without suspensions, according to the Public Orders.

In 2011, two complaints to date have resulted in Public Orders; one Order imposed a summary suspension and the other Order imposed a one-year probation, plus quarterly unannounced inspections and a requirement to reimburse a family nearly \$3000.

According to Public Orders posted on the website as of the end of September, nine other suspensions have occurred this year with the majority of the problems evidently discovered by the inspector.

Where to find complaint forms

The **Maryland Board of Morticians and Funeral Directors** website is <http://www.dhmf.state.md.us/bom/> Click on Forms near the top of the left column under Menu. Then click on Public Forms. The Board also may be reached at 410-764-4792.

The **District of Columbia Board of Funeral Directors** website is https://ww8.pearsonvue.com/dc/funeral_director/ Click on Regulatory Complaint Intake Form in the left column under Publications and Forms. Then click on Open in the file presented to you. The Board also may be reached at 202-442-4320.

The **Delaware Board of Funerals Services** website is <http://dpr.delaware.gov/boards/funeralservices/index.shtml> Click on File a Complaint in the left column under Services. Then click on Statement of Complaint in the middle of the screen on the page with the heading "How to File a Complaint". The Board also may be reached at 302-744-4500.

Plain Talk is the newsletter of the Funeral Consumers Alliance of Maryland & Environs, the volunteer-run regional chapter of a national non-profit consumer education and advocacy organization, the Funeral Consumers Alliance (FCA). FCAME serves residents in Maryland, DC and Delaware.

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Your support is vital to FCAME's mission and success

To join or remain a member of FCAME, we encourage an initial contribution of at least \$25, plus a similar donation at least every other year to help support FCAME as well as our national organization, the Funeral Consumers Alliance, which is sent a portion of the donations we receive.

We also are seeking volunteers to join our board of trustees. This would require a willingness to devote several hours a month to FCAME activities including attending our monthly meetings.

In addition, we are seeking volunteers willing to contact your elected officials when legislation is under consideration that may affect your right to dignified, meaningful and affordable funeral

arrangements. Based on past experience, this would require a small time commitment only a few times a year, at most.

Funeral home inspection in Maryland (cont.)

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"In months when I have a lot of investigations in addition to the committee meetings I must attend, I may do inspections here and there as time permits. When I can devote a full day to inspections, I can usually complete four or five," explained Ms. Arty.

All completed inspection reports are reviewed by the Establishment Committee, which may change the time frame the inspector gave for problems at a funeral home to be fixed. The committee is responsible for reviewing issues of day-to-day business by funeral establishments (other than those relating to preneed contracts) ranging from advertising and signage, to conditions of body preparation rooms, to the public safety of viewing rooms.

The Establishment Committee meets monthly and refers cases to the Complaint Committee when it feels they warrant further action.

Insight into how the Complaint Committee operates and how violations of law and regulations are handled can be found in the article on handling complaints about funeral homes in this issue.