

The Funeral Rule – The FTC’s Proposed Changes and Why They Do Harm

The National Funeral Directors Association has been involved in working with its members and the FTC from its inception to make sure that the regulations imposed on funeral service are clear, fair, and meet the goals of providing clear and straight forward pricing information to consumers without unfairly impacting funeral homes, almost 90% of which are small and family-owned businesses that employ almost 150,000 people in the U.S.

What is the Funeral Rule?

- The only federal law that focuses on funeral service (most regulation is at the state level)
- The Funeral Rule (16 CFR 453) went into effect in 1984 and was revised in 1994
- The Rule requires funeral providers give itemized price information & other disclosures
 - o It mandates providing consumers with a General Price List, Casket Price List, and Outer Burial Container Price List
- The Rule also prohibits funeral providers from:
 - o misrepresenting legal, crematory, and cemetery requirements;
 - o embalming for a fee without permission;
 - o requiring consumers to buy certain goods or services; and,
 - o engaging in other deceptive or unfair practices.
- Penalties for violations are up to \$50,120 per violation.

In October 2022, the Federal Trade Commission (FTC) issued an Advance Notice of Proposed Rulemaking (ANPR) for the Funeral Rule, the federal regulation that governs funeral homes. The ANPR addressed seven different areas for which the FTC is considering expanding the Rule:

1. Online and Electronic Price Disclosures
2. Crematory Fees and Additional Costs
3. Reduced Basic Fee Services
4. Alternative Forms of Disposition
5. Embalming Disclosure
6. Price List Readability
7. Impact on People in Underserved Communities



NFDA has long asserted that there is no need to expand the Rule. The data clearly shows that:

- (1) Consumers do not price shop for funeral goods and services, especially not online;
- (2) Price is not a primary determining factor for funeral consumers; and,
- (3) The Rule has not delivered its intended benefits and instead has resulted in confusion for funeral providers and consumers, and increased costs while stifling price competition and innovation.

The FTC has not met the burden established by Congress and the Court necessary to revise and expand the Rule, has not shown that any changes would advance the Rule’s purpose, and has not shown that any benefits of a revision would outweigh its cost.



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The issue raised by the ANPR that has attracted the most attention is whether funeral homes should be required to post pricing information on their website.

However, 38 years of evidence shows that consumers do not experience difficulty obtaining pricing information and that price information does not make funeral consumers more price-conscious. Therefore, requiring funeral homes to post prices online is not needed. If a funeral provider wants to post their prices online, they should do so. However, we believe that the imposition of a rigid Federal rule that would double down on the issues already existing with the Rule would do more harm than good.

While NFDA opposes a rigid federal rule that would mandate posting of price lists online, it is most likely that the FTC will impose such a rule. NFDA suggested changes to the Rule that would address concerns while simultaneously providing clarity and guidance for funeral service professionals.

NFDA proposed that if such a requirement were to be imposed:

- It would only require funeral providers who maintain a website under their control (as opposed to a third-party site like Facebook or Twitter) to provide means on their website for consumers to request price information; and
- It would be revised to make clear that the obligation to produce price information under the Rule is only triggered when someone asks the funeral provider about pricing.
 - o This is a significant issue for funeral directors and would clear up one of the most confusing, and cited, elements of the Rule.



NFDA fully believes in the importance of price transparency and making sure consumers know what they are getting and how much it costs. We also believe that a funeral provider should be free to advertise and market their goods, services, and prices in any manner that is reasonable and proper.

If Congress decides to do oversight hearings on the FTC, NFDA is willing to share more information about the impact of the agency’s activities on small businesses, like funeral homes.

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¹As opposed to the current requirement that price information be produced when any discussion about the type of funeral or disposition, goods and services offered, or the pricing begins.