

Preneed Funeral Planning: A Primer For Purchasers

The death of a loved one is a heartbreaking, tiring experience. During a time of profound grief and loss the loved one's closest family is called upon to not only inform and console others of the loss but also to coordinate funeral arrangements. In some instances, the loved one may have tried to ease this burden by making and paying for funeral arrangements in advance. As a recent AARP article noted, however, sometimes the loved one's efforts at preplanning are frustrated because the contract is not honored in whole or part.¹ The AARP article begs the question: how is preneed funeral planning regulated in Virginia and what protections exist for consumers?

In Virginia, preneed funeral planning is governed by state law as regulated by The Board of Funeral Directors and Embalmers (Board). The Board determines the "standards of service and practice for the funeral service profession." Accordingly, the Board has the authority to refuse to license individuals, revoke or suspend licenses, censure licensees, or place them on probation.

Although funeral service professionals in Virginia may offer preneed services, a seller may not solicit potential buyers for preneed services through in-person communication, which includes "face-to-face" and "telephonic communication." Furthermore, after a potential buyer contacts the seller regarding services, only a funeral service licensee may communicate with the potential buyer.

Before actually entering into a contract, the buyer must be provided a Disclosure Statement (Statement). The Statement includes definitions of contract terms, answers to frequently asked questions, and any policies not dictated by the Board that are specific to that particular seller. In addition to the Statement, the seller must also provide a current pricing list. Notably, the seller must both provide the Statement and pricing list and provide the buyer the opportunity to read the documents.

The contract itself must be written in "clear, understandable language and printed in easy-to-read type." The contract must clearly describe the supplies or services purchased and whether the price of a purchased supply or service is guaranteed. Guaranteed prices will not result in an expense to the loved one's family or estate even if the cost to provide the supply or service increases between the contract date and the date of death. Other information such as the funding method, the effect of termination by the buyer, and Board contact information for consumer complaints must also be included in the contract.

Buyers may purchase preneed services through a trust agreement, insurance policy, annuity policy, personal property, or real estate. The type of funding used may affect the amount of flexibility with regard to cancellation or assignment of the contract to another funeral provider. That said, a buyer who terminates a preneed contract within thirty (30) days of the contract must be refunded all money paid plus any accrued interest. Also, regardless of the funding method, preneed contracts may not include finance charges. Virginia also regulates the provision of services at the buyer's death.

¹ Barry Yeoman, *R.I.P. Off*, AARP The Magazine, Jan. & Feb. 2008.

If an agreed upon service or supply is unavailable at the loved one's death, then the seller must "furnish supplies and services similar in style and at least equal in quality of material or workmanship." Moreover, the family member designated to work with the seller at the loved one's death "shall have the right to choose the supplies or services to be substituted."

Although Virginia carefully regulates the initial contact between buyers and sellers and contractual disclosures, preneed funeral contracts should not be entered into in haste. The funding option chosen, the pricing of a particular supply or service, and the policies specific to an individual funeral service provider affect the buyer's ability to cancel or change the policy during life and what may be expected of the buyer's family upon death. A careful review of the pricing, policies and options available can help insure that the buyer has purchased a preneed funeral plan that he understands and that will assist his family in the way he intends.