

## Greetings, Licensees of the Oregon Mortuary & Cemetery Board and Interested Persons:

This is the third “issue” of the OMCB’s informal, “periodic” educational emails to licensees and the Board’s interested persons. *(If you wish to be removed from the Interested Persons list, merely respond to this email and let us know.)*

- 1. Our Leader Returns!** Great news! Michelle Gaines is returning to her position as OMCB’s Executive Director effective May 1<sup>st</sup>! We are very excited to have her back! Michelle has completed her work in Oregon’s Chief Operating Officer’s office where she has led the “Operation: Oregon” initiative and shaped it into the “Improving Government” outcome area of the [Executive Leadership Team](#) within the framework of the [Governor’s 10-Year Plan](#). Michelle has graciously been in the wings as advisor to the Board these past eight months, but it will be so nice to have her back in the office, resuming those executive duties she does so well. We’ve all missed her. *“Welcome back, Michelle!”*
- 2. New Rules!** On April 1<sup>st</sup> new OMCB [administrative rules](#) went into effect. (Licensees and owners are required to know the statutes and rules that guide the death care industry, so now might be a good time to read through them again.) Basically, the amended rules focused on a new form of final disposition that was brought about during the 2009 legislative period: [Dissolution](#). But the rules also clarified some record-keeping and document requirements.

For example, did you know all [contracts must now have the OMCB’s phone number](#)? This includes pre-need contracts, too. The disclosure should now read:

*“This facility is licensed and regulated by the Oregon Mortuary and Cemetery Board - (971) 673-1500.”*

[Sales contracts also must include a cancellation period!](#) Specifically, OAR 830-030-0100(7) provides that “licensees must, in their sales contracts, include a reasonable period of not less than five business days during which purchasers may cancel their funeral or cemetery contracts for undelivered goods and services and for delivered goods that are unused or undamaged, or any contract for interment rights.”

Facilities that have a lot of pre-printed contracts without the above information noted on them, do not need to toss them out! As usual, the Board doesn’t expect facilities to waste a lot of resources every time a rule changes... There are other ways to be in compliance: You can attach another page to the contract that provides the cancellation notice to the consumer (give a copy and save a copy), or you can type the language on the contract (make sure it’s on the facility AND consumer’s copy), or you can get a stamp made that you stamp to each sales contract. Then, at your next printing, incorporate the verbiage.

**3. IDENTIFICATION VIEWING...what is it? Can you require it? Can you charge for it?**

OK, you've made the removal, the decedent is at your funeral home (or at the funeral home you contract with for holding remains) -- and now the family member asks to see the decedent one more time...a "goodbye" viewing, a moment for some closure. Maybe just the spouse, maybe just 2-3 children of the deceased. They don't want the *formal* viewing or visitation. They don't need the body washed, dressed, the hair styled, or cosmetics applied. Are you calling this an "ID Viewing"? If so, it's time to update your general price list! This isn't an ID viewing. You could call it a 'brief viewing' or 'minimal viewing' or other term you choose to use in the GPL that doesn't confuse the consumer with your formal viewing. (More about minimal viewing below...)

OAR 830-011-0000(29) defines "**Identification Viewing**" as viewing human remains for the purpose of identifying the remains, regardless of whether the remains have been washed or otherwise prepared.

So, knowing that an identification viewing is for identification purposes only, can you require the family to identify remains? Well, yes and no. You can and should require remains be positively identified (especially before cremation) but you can't insist the family physically *view the body* for the purposes of identification - There is no law that requires it, and as you know, it might be traumatic for some. Since it isn't required, you couldn't charge for it if you did request they come to identify the remains. That would make the 'service' another non-declinable fee (only one is permitted - the basic services fee), and, it's 'conditioning one service on another' - both are FTC violations. (Photo identification works, as you know.)

**Minimal Viewing...what is it? When can we offer it, charge for it?**

FTC describes this situation: A family wants to arrange for an immediate burial, and does not want embalming. Before burial takes place, one family member wants to look briefly at the deceased by lifting the lid of the casket. Here, the request to see the deceased does not constitute a formal viewing and, in situations like this, you also cannot require the family to pay for "other preparation of the body".

But, not all viewing is this simple. Sometimes there is more planning needed, more staff time required, maybe retrieving the decedent from a holding facility (if viewing isn't possible there), etc. So, the children want that minimal viewing...and they have the right to see their loved one last time. Can you discourage this type of viewing? No, you cannot discourage private family viewing. Is washing and disinfecting required? No, technically that's only required for public viewing. (Now, hopefully you already *know* the condition of the body when the family asks to see their loved one. But if not, find out...) Basically, if the family doesn't want ANY preparation, you must abide by their request. Many funeral homes don't charge for this brief type of 'closure' viewing, but since it is a request that may require some expense, it is not prohibited to do so.

By all means, if the situation warrants it, you should explain the condition of the body, give them sufficient information so they can make an informed decision, and if they then request washing or other preparation, you may charge for it. (Example, an autopsied remains is likely to need some repair prior to viewing, but, technically you can't require and charge for it.) Rule of thumb: you should not require (and then charge for) any unrequired or unrequested preparation. "*What about liability for the family's trauma?*" (This is one reason you should know the condition of the body.) Some facilities use a liability form that warns the family of possible trauma when viewing unprepared remains.

What is 'minimal' and 'brief'? We've heard this scenario: *"I told the spouse she could come in to see the remains, but then 15 people showed up and stayed for two hours!"* More and more we see General Price Lists with services like "Minimum Viewing," "Brief Family Viewing" or "Brief Private Viewing" -- to distinguish it from the formal, public viewing that, at a minimum, legally requires washing. In this way, both kinds of viewing are clear options for consumers, and facilities are able to be reimbursed for their expenses. Some licensees, in their GPL's description for these minimal viewings, limit the number of people and the time permitted, and include any necessary equipment (i.e. clean sheet if no embalming) and necessary staff presence at the facility.

Feel free to call me or our Compliance Specialist, Brenda Biggs, to discuss this issue in more detail and for help with your General Price List.

**Again, we welcome topics and questions! We are here for you, your questions and concerns. Call me (971-673-1503) or Robert (971-673-1504). For inspection/compliance, call Brenda (971-673-1505). For licensing questions: call Samantha (971-673-1508) or Carla (971-673-1507).**

**Best regards and enjoy Spring!**

*Lynne and the Staff at OMCB*



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Forms & General Information: [www.oregon.gov/mortcem](http://www.oregon.gov/mortcem)