



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

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August 5, 2016

Mr. Thurman Higginbotham, President
Independent Funeral Directors Association of DC
3145 Lady Banks Lane
Waldorf, MD 20603

Dear Mr. Higginbotham:

Your request for a staff opinion states that funeiopinID ader2

any fee as a condition of furnishing any funeral goods or funeral services to a person arranging a funeral, other than the fees for: (1) Services of funeral director and staff, permitted by § 453.2(b)(4)(iii)(C) [basic services fee]; (2) other funeral services and funeral goods selected by the purchaser; and (3) other funeral goods or services required to be purchased [*i.e.*, by legal, cemetery or crematory mandates], as explained on the itemized statement [SFGSS] in accordance with § 453.3(d)(2).⁵

While the Rule does not permit a second non-declinable fee, it does permit fees for funeral goods and services voluntarily “selected by the purchaser.” It is therefore staff’s opinion that funeral providers may offer to locate and pay a physician to pronounce an in-home death from natural causes for a fee that is optional. No Rule violation occurs if purchasers voluntarily choose such a service and are free to avoid the cost by, for example, declining it and making arrangements for the death pronouncement themselves.⁶

To allow purchasers to make a voluntary choice about finding and paying a physician to pronounce an in-home death from natural causes, the funeral provider must disclose the optional fee on the provider’s GPL. The provider must notify the purchaser about the optional fee orally and by providing a copy of the GPL when removal arrangements are discussed, or promptly upon arriving for the removal of the body.⁷ The disclosure should state whether the provider’s fee includes or is in addition to the physician’s fee. The provider should also list the fee on the SFGSS, and the physician’s fee, if not included, should be listed as a cash advance item.⁸

Please be advised that the views expressed in this letter are those of the FTC staff. They have not been reviewed, approved, or adopted by the Commission, and they are not binding upon the Commission. However, they do reflect the opinions of those staff members charged with enforcement of the Funeral Rule. Staff Funeral Rule opinions are now routinely posted on the FTC website currently located at: [https://www.ftc.gov/policy/advisory-opinions?title=&term_node_tid_depth=3507&date_filter\[min\]\[date\]=&date_filter\[max\]\[date\]](https://www.ftc.gov/policy/advisory-opinions?title=&term_node_tid_depth=3507&date_filter[min][date]=&date_filter[max][date]).

Respectfully yours,

Craig Tregillus
Funeral Rule Coordinator

⁵ 16 C.F.R. § 453.4(b)(1)(ii).

⁶ Staff Opinion 13-2 (Jan. 3, 2013) at 2, *available at* <https://www.ftc.gov/policy/advisory-opinions/opinion-13-2>.

⁷ Such a fee can be listed on the GPL, for example, as “Optional service fee for arranging a physician to pronounce a death from natural causes at a D.C. residence if no treating physician exists or if neither the treating physician nor her assistant registered nurse is available. This fee is **in addition** to the physician’s fee.”

⁸ Such a fee can be listed on the SFGSS, for example, as a “Service fee for arranging a physician to pronounce death at a D.C. residence. This fee is **in addition** to the physician’s fee.”