

OKLAHOMA

DIRECTOR

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A detailed photograph of a wolf's head, facing slightly to the right. The wolf has dark, textured fur and striking yellow eyes. It is wearing a dark blue pinstriped suit jacket over a white shirt and a light blue patterned tie. The background is dark and out of focus.

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Handling Vendor
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My Fault or My Opportunity?

Phillip Hart
OKFDA President

Who really is to blame? What happened to the good thing we had going with traditional funerals? Did we take them for granted? Is it now traditional not to be traditional? At the point when a body has been cremated, have we lost our business? Does that family really even need a licensee from that moment on? Was the demise of tradition my fault in my town?

To answer some of these questions let's begin with the reality of who authored and created the traditional funeral to begin with—The Consumer! What were the driving forces behind the wishes of the consumer? Societal trends of the time, cultural traditions and religious customs of a predominate Judeo-Christ-

tian society certainly factored in, even down to the layout of most cemeteries with graves facing the east. The idea of a town feeling like home, a grave that needs tending and a grief that needs working through were factors, I'm sure. Maybe we used to spend more time with our loved ones back in a day when cellphones and video games didn't exist, and we weren't as mobile so our loved one's body was simply more precious.

So was it our fault, or do we chalk it up to a great run while it lasted and move on to meet the needs of the new, modern consumer? Just maybe the answer is a little of both. Sure, funeral homes could have done some things a little better. We could have passed on the tra-

dition of good embalming and body presentation to the next generation of funeral service professionals. Maybe we should have spent a little time educating families on why customs became customs and the importance of facing death and the reality of grief.

So, what is the answer and could this actually be my opportunity? Yes! This could be both you and your firm's opportunity to shine as you embrace the modern consumer. After all, it is their show; they are the designer, author and creator of the modern death experience. My dad always said, "the family is our employer. They pay us to work for them, so we will do whatever they ask as long as it is legal." We can and should give guidance along the way, but also be willing to expand what we have to offer within reason. When a family lays out what they have in mind, price it, but then offer the upgraded version of the same. They will take it almost every time and you will look like the hero! Don't forget that OKFDA is your association, and we want you to continue to serve and succeed, even as non-traditional has become the tradition.

ATTENTION

CONTINUING EDUCATION

Dates & Locations for our Fall District Meetings have been decided.

We have combined Districts III & IV and Districts V & VI. You do not have to attend the meeting specified for your district.

There will be 1 hour of CE at each meeting.

The cost for members is \$30 for the meal.

Non-members will pay \$50 for the CE & \$30 for the meal.

District I-September 20th Iron Star BBQ
(3700 N. Shartel Oklahoma City)

District II-September 22nd El Patron Concina Mexicana
(11101 E. 41st St., Tulsa)

Districts III & IV -September 27th White Dog Hill
(22901 N. Route 66, Clinton)

! Districts V & VI- September 29th Ole Red's Dog House
(Corner of Main & Kemp Ave., Tishomingo)

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Shaping the Next Generation of Funeral Professionals

Dustin Pierce
OKFDA Executive Director

Happy Labor Day! I certainly hope each of you had a great Labor Day! Kids are back to school and our routines have returned to a more fevered pace.

I read a lot of short stories by a gentleman named Walt Merrell. He has a blog and book titled "Shepherding Outdoors". Although most of his stories talk about getting outdoors and spending time in God's creation, there's always a takeaway from his stories. He recently wrote about a man he regularly has breakfast with named Claude. Claude is much older than Walt and often questions Walt's desire to hang out with him. Walt asked Claude if he could help him plant his garden this past spring. Claude's response was "why would you want to do that?" I often wonder if that's the same response we have when we get a person who takes an interest in our profession? "Why would you want to do that?" Deep down I really believe that the younger generation is ea-

ger to learn from us, but we stand in our own way most of the time.

We are responsible for mentoring the next generation of funeral directors and embalmers. You might just say to yourself "why would I want to do that?" Being a mentor will help shape tomorrow's leaders. To grow our profession, we must invest in the next generation. There's a real return on investment for everyone involved. When we become a mentor, we begin a friendship that is based on trust, opportunity and the ability to become the best version of yourself. I would encourage you to find someone in your community who you think would make a great funeral director and mentor them. Proverbs 27:17 says, "As iron sharpens iron, so one person sharpens another."

OKFDA is working hard on our new website and management software. We hope that it will be up and running for our membership

drive starting in October. Our software will make it easy for you to join, renew or change anything about your membership going forward. We hope that this website and software will be a great resource to you and your funeral home.

In conclusion, I am always looking for interesting articles for the *Oklahoma Director* magazine. If you have a local story you would like to share with OKFDA please email it to me at info@okfda.com. OKFDA wants an association that is inclusive of everyone and where everyone who joins feels they have opportunities to succeed and grow. As always, if I can help in any way, please let me know by calling, emailing or texting.

OKFDA to Launch New Website

OKFDA will be launching our new website and membership database in the near future. We hope that you will find it more eye appealing and easier to navigate. Please have patience with us while we work out the kinks.

Once the website is launched you will receive your log-in credentials via e-mail. OKFDA is working hard at improving all our membership benefits! Stay-Tuned



Pre-Injection and Beginning Arterial Embalming

By Wally Hooker



This article is the second in a series to appear in Oklahoma Director. The initial article in August 2022 reviewed the basics of body preparation (go grab it if you haven't read it!)

With our “pre-case analysis” and initial cleansing/disinfection, feature positioning completed, the next logical step is to consider whether pre-injection is necessary. Pre-injection is an often debated treatment that many consider a waste of time and money. An experienced, competent practitioner will allow the body to dictate the necessity. Just as we disinfect and bathe the body on the outside, it serves us well to perform an interior cleansing of the vascular system and cells. This leads the way to a good thorough embalming.

A variety of post mortem signs will indicate the importance of pre-injection. One example is medication and drug use. When you ob-

serve multiple IV lines and appliances used for administering drugs, you can be sure the cells of the body contain nitrogenous wastes. This will inhibit formaldehyde from doing its job of thoroughly fixating tissues. We often see this with OD deaths (from prescription and illicit drugs), as well as treatments administered in hospitals and nursing homes. More times than not, without pre-injection these bodies tend to remain soft and “spongy” regardless of how much arterial fluid or how high the solution strength is. Many times you are wasting arterial fluids as you attempt to firm these bodies, but still not achieving adequate preservation.

Another treatment necessitating pre-injection would be cancer treatments: chemotherapy, radiation, or bone marrow transplant. Over the years, before I became a believer in the benefit of pre-injection, I can think back to where I virtually achieved no drainage of

blood because it was so thick and viscous from these treatments. Using the right mixture of pre-injection chemicals can give you a leg up on creating drainage and clearing.

When you are presented with the widow maker – the dark purple face and swollen neck that follow an acute myocardial infarction – pre-injection can be an important step to ensure clearing away the post mortem staining. An important guideline I follow on these cases is if you apply digital pressure on the surface of the face over the staining and it will clear away, then return, I would suggest you inject through the carotid artery...low pressure and slow rate of flow. If the stain seems fixated, I suggest using the femoral artery. Again, low pressure and low rate of flow to prevent swelling. I suggest using the femoral for the fixed staining, to reduce swelling of the neck, lips and eyes. Remember, in these cases, low and slow will “win the race.”

If death follows recent surgeries, or deaths are the result of traumatic injuries where the deceased was exposed to soil, animal wastes, or other contaminated surfaces, drowning, nursing home/hospice deaths where gangrene is present, then consider the importance of pre-injection using a specialty chemical to treat/prevent tissue gas. In these cases, an ounce of prevention is worth a pound of cure. Clostridium perfringens is not to be taken lightly, and a pre-treatment gives great peace of mind, even if it isn't present. We have insurance on our homes, property and vehicles hoping we never need it. Preparing for the worst in our embalming rooms should be of equal importance!

We've touched on several scenarios calling for pre-injection. For those of you saying it is too time consuming, costly and unnecessary, I'll share what I do. Following the initial disinfection/cleansing of the deceased, I mix my solution as follows: (16 ounces each of water conditioner, a co-injection, a co-injection containing a red tracer dye, which is amazing, and a tissue gas fluid if necessary) plus enough hot water to create a gallon of body temperature solution. My objective is to inject the entire gallon of pre-injection solution into a closed

vascular system. I inject down from the right common carotid artery, without establishing drainage. The key is low rate of flow and you will generally not encounter significant distention or swelling. Watch the eyes, temporal region and neck for problem swelling. If you notice slight swelling, simply lower your rate of flow. When I have injected the gallon of solution, I wait 20 to 30 minutes, or longer. As I'm waiting, I set the facial features, shave, clean the nails, ensure the body is in a natural looking position, restock my cabinets with chemicals, and tidy up. This allows time for your pre-injection chemicals to do their job within the vascular system and cells, preparing them for the arterial embalming.

After allowing the pre-injection solution adequate time to work, we move ahead with the arterial embalming. I cannot express the importance enough in being familiar with the chemicals at hand. Many of us started in the prep room using the chemicals and solution strength the boss told us to use. Today's chemicals are formulated for the difficult challenges we face as we step up to the embalming table. Without a thorough understanding and knowledge of the chemicals, their intended use and expected results, we are at a disadvantage. The body before us is telling us the direction to head and the chemicals to use to achieve the best results.

I'm a firm believer with cosmetics that less is more! Let's always attempt to introduce color with our arterial solution to give a more natural appearance and lessen the need to over cosmeticize. Knowledge of your chemicals is key!

As we begin the arterial injection, I do not establish drainage until I have re-created vascular pressure. It should take maybe a quart and then establish drainage. During a normal embalming, I restrict drainage more than I have open drainage. We need restricted drainage to ensure the deep tissue of the body is adequately embalmed.

If the nail beds and finger tips have significant post mortem staining, try running warm water over them, wrap with cotton and keep them warm for a short period of time, gently massage them with soap, then tap the nail beds with the handle of an aneurysm hook to aid in clearing.

This is just an overview of the beginning steps of the arterial embalming. In future articles we will look more in depth at the embalming challenges we face. I am at a disadvantage in these articles in that I can't share the actual chemicals I use. But, as always, I'm more that happy to con-

sult with anyone having questions.

In closing you will notice, I won't be going in depth with scientific data or the chemical reasoning certain fluids or procedures work. Again, I don't consider myself an expert, I'm simply sharing what has worked for me over the years, hoping the information I share with you is helpful. Be safe out there and see you next month!

Wallace P. (Wally) Hooker, CFSP, MBIE, is the owner, funeral director and embalmer of Family

and Friends Funeral Home of Wingate, Indiana. He and his wife, Janet, designed, established and built their funeral home in 2004. Wally is a graduate of Worsham College of Mortuary Science, where he serves on the Advisory Board. He is past president of the Indiana Funeral Directors Association and board member of North American Division of the British Institute of Embalmers. In addition, he has served as the chief deputy coroner/investigator of Fountain County, Indiana, for 24 years.



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Why Do We Have the FTC Funeral Rule?

The Body Baron of Broward County

By Marty Ludlum



A profession must do everything it can to avoid any appearance of impropriety. The FTC's Funeral Rule is part of that process. To the overwhelming majority of funeral home professionals, the FTC regulations seem to be wasted effort. However, those rules are essential to regulate the profession and protect the public, even if 99.99% of funeral home professionals would never behave that way.

Patricia Hartley (2022) of Connecting Directors said it best: "No matter how frustrating the Funeral Rule can sometimes be for death-care professionals, it's good to know that it also has a role in (hopefully) ridding the industry of bad players."

"Preying on consumers when they are dealing with the loss of a loved one is outrageous, and it's illegal," commented Samuel Levine, the director of the FTC's Bureau of Consumer Protection.

In April, the FTC filed a nineteen-page complaint against a cremation service, and that complaint should serve as a model of what not to do for a profession.

The Cast of Characters

You need to understand the complexity

of the operation. Despite all the names and business names, the entire operation involves a father and a son, and the multiple business names are just websites.

In 2002, Giuseppe Salvatore Damiano, also known as Joseph Damiano, nicknamed the "Body Baron of Broward County" due to his contracts for transporting and cremating corpses, was criminally charged in Florida with running an illegal crematorium and concealing his interest in one of his related businesses (Kauffman, 2021).

Joseph Damiano established the online business in 2012, with the assistance of his son, Anthony. The company acts as a middleman by selling funeral and cremation services that are then subcontracted to licensed operators.

Joseph Damiano died in April 2017, after which Anthony took over the business, which now operates under at least five names, including Heritage Cremation Provider, Legacy Funeral Service, Legacy Cremation Services, Families First Funeral Home and Funeral Services and The Funeral Group.

Legacy Cremation Services is based in Colorado and North Carolina, and also does busi-

ness as Heritage Cremation Provider and Funeral & Cremation Group of North America, LLC. The companies are owned by Anthony Joseph Damiano.

Complicating matters, Anthony Joseph Damiano also goes by the names "A.J. Styles" and "A.J. Mahoney."

How they operate:

The FTC's complaint alleges that a consumer finds the company's various websites when searching for local cremation services. The sites promise "compassionate community service close to home." In reality, the websites are simply landing pages that insert the city or town the person searches. For example, the search query "cremation providers in Abbeville, Alabama" would take the searcher to a Damiano webpage titled "Trusted Cremation Services in Abbeville" — even though the company has no physical location in Abbeville.

According to the FTC complaint, this ruse was also carried out when consumers telephoned the company, as Damiano's representatives would confirm that they were either a local establishment or that they work with local crematories.

For example, Iowa:

The website of Legacy Funeral Services continues to be active advertising services in Iowa despite an order to halt business in Iowa. The company maintains no physical presence in Iowa or in other states where it has been accused of illegally offering services to grieving families (Kauffman, 2021).

The company's website, however, remains active and it lists Iowa as one of the states in which it does business. The website also includes the statement, "We're a part of your community. We're family ... We also support many local charities, schools, and other community efforts."

An Iowa Capital Dispatch reporter called the company's toll-free line to inquire about cremation services in Des Moines. The operator who took the call answered the phone

by saying, “Funeral home,” and then said, “The director is with a family just at this moment,” adding that he would return the call later.

Their associations?

Damiano’s business seems quite normal. Ehrlick (2021) noted that Legacy claims to be a member of the Better Business Bureau and the Green Burial Council. However, the Green Burial Council, based in California, confirmed that Legacy was not a member. The Better Business Bureau reported that Legacy Funeral services is not a member, and had an “F” rating (Ehrlick, 2021).

Legacy’s website included the logo of the International Cemetery, Cremation and Funeral Association. However, the association’s legal counsel, Poul Lemasters, explained that Legacy was using the ICCFA logo without its approval (Kauffman, 2021).

According to the NFDA, the company is an “internet middleman that holds itself out to the public as a locally owned and trusted funeral home providing low-cost cremation services,” but is actually an “unlicensed seller of funeral and cremation services with a long track record of consumer fraud and abuse.”

Current complaint by FTC:

The FTC’s nineteen-page complaint alleges that Damiano and his firms violated the FTC Act and the Funeral Rule by “misrepresenting themselves as local providers and charging people substantially higher prices than advertised.”

The Department of Justice filed the complaint with the U.S. District Court for the Southern District of Florida, which is where Damiano lives. The potential penalty is up to \$46,517 for each violation. The DOJ is seeking civil penalties and monetary relief for victims, plus a permanent injunction to prevent future

violations of the FTC Act and the Funeral Rule.

Not their first rodeo:

The Damiano set of companies have been

in trouble many, many times before, and are undeterred.

The Florida Board of Funeral Directors and Embalmers filed two complaints against



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Damiano in connection with an alleged scheme to rent bodies to mortuary students, without the permission of the families. Former employees claimed the ashes of cremated clients were sometimes scattered in a parking lot after family members had paid for them to be cast into the sea.

The Damianos were each ordered to serve three days in jail for contempt of court with regard to their alleged refusal to comply with a North Carolina court order barring them from the unlicensed practice of funeral services.

In 2015, the state of Tennessee fined Legacy-Heritage \$8,000 for operating an unlicensed funeral service in that state. That same year, the Florida Department of Financial Services ordered Legacy Funeral Services to stop operating in the state. At about the same time, California's Cemetery and Funeral Bureau filed a cease-and-desist order against the company and imposed a \$5,000 fine for operating without a license

(Kauffman, 2021).

In 2016, the Damianos were each ordered to serve three days in jail for contempt of court with regard to their alleged refusal to comply with a North Carolina court order barring them from the unlicensed practice of funeral services. The jail sentence was suspended pending the completion of two years of unsupervised probation.

In 2017, five years after the senior Damiano registered his business in Colorado, the state's Office of Funeral Home and Crematory Registration ordered him to stop doing business there and revoked his registration, citing 30 complaints with the Federal Trade Commission and cease-and-desist orders in several states. The order, which accused Damiano of using his "Colorado registration to conduct unlicensed funeral practices" in other states, had no apparent effect on the business.

Also in 2017, the state of Georgia secured a \$185,000 judgment against Anthony Dami-

ano and Heritage/Legacy, and Massachusetts suspended Heritage's registration. In Tennessee, cease and desist orders have been issued against Legacy and Heritage, and in North Carolina an injunction was issued against both companies, alleging they had been providing unlicensed funeral services. Similar actions have been taken by Oregon's state mortuary and cemetery board and by the North Carolina Board of Funeral Service.

In 2019, the NFDA issued its third notice about the company in as many years, warning its members to stay clear of Damiano and his multiple companies. At the time, Damiano was doing business under five different company names — all of which were, in actuality, simply names on a website full of false claims (Hartley, 2022).

In February, 2021, the Iowa Board of Mortuary Science fined the Colorado-based company Legacy Funeral Services \$10,000 for doing business in Iowa without a license (Kauffman, 2021).

Now, in 2022, the FTC is after them on a national scale.

State fines have not been successful in stopping Damiano's enterprises. Ehrlick (2021) in his investigation for his article spoke to "A.J. Mahoney" on the phone. Mahoney said: "They can impose all the fines they want, but that's not going to stop us."

Do they operate in Oklahoma?

I bet you felt confident the answer was "no." You likely never met Anthony Damiano or his father Joseph at any OKFDA district or state meetings. You likely never met anyone who worked at Damiano's cremation services establishments in Oklahoma. That's the point. They only exist on the internet.

I spent 30 seconds searching online for cremations in Oklahoma (June 28, 2022) and found their website.

<https://www.legacycremationservices.com/cremation-services-cost/oklahoma>

The Oklahoma website is nearly identical to sites advertising the same services in 49 states, and uses the same stock photo image (an older couple walking along a beach, with the watermark imprint "Shutterstock"). Legacy Cremation Services offers cremation services in Oklahoma starting at \$695.

A.J. Damiano has no physical location (or license to operate) in Oklahoma, but you would never know it from the website.

Ehrlick (2021) noted that Legacy Cremation Services maintains a website in every state

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except one, North Carolina. These sites use the same template and feature the same menu options. The toll-free number is the same for every site. Heritage Cremation Services, which is owned by Legacy Cremation Services, (according to their representative) maintains a website listing similar services in every state.

Lessons from this example:

- FTC goes after those who commit fraud.
- Do not tell customers you have a physical location if you do not have one.
- Do not tell customers you are licensed in a state if you are not licensed.
- Do not promise services to customers that you do not intend to perform.
- Do not advertise fees that do not represent the real price of your services.
- Do not handle the remains in ways which are unethical and illegal.

I could condense this down to simple Okie: "Tell the truth and do what you promise to do."

Conclusion

Will the FTC be able to stop Damiano when the individual states have not? The FTC has

greater powers than state regulators. The biggest punishment a single state has is to remove a license to operate in that state. Damiano's various operations do not care about the state licenses or the fines. The only way to stop this activity would be a national (federal) action, which is exactly what the FTC is doing currently.

I will update OKFDA when I hear more about the progress of this case.

Bibliography:

For a look at the 19-page complaint filed by the FTC case against Legacy, see <https://www.ftc.gov/legal-library/browse/cases-proceedings/1923124-legacy-cremation-services>.

Darrell Ehrlick, A 'Legacy' of lawsuits from multiple states for cremation service: Montana company won't reveal where in the state it's located, Daily Montanan, April 7, 2021, available at <https://dailymontan.com/2021/04/07/a-legacy-of-lawsuits-from-multiple-states-for-cremation-service/>.

Patricia Hartley, DOJ Sues Cremation Company for "Outrageous, Illegal" Funeral

Rule & FTC Violations, Connecting Directors, April 26, 2022, available online at <https://connectingdirectors.com/63259-ftc-sues-heritage-and-damiano>.

Clark Kauffman, Unlicensed, 'scandal-ridden' broker based in Denver offers cremation services to grieving Iowa families: Company has been subject to disciplinary or court action in multiple states, Colorado News online, March 29, 2021, available online at <https://coloradonewsline.com/2021/03/29/unlicensed-scandal-ridden-broker-based-in-denver-offers-cremation-services-to-grieving-iowa-families/>.

Professor Marty Ludlum teaches business law at the University of Central Oklahoma and is a licensed attorney. He has made numerous presentations to the funeral profession at state and national conventions and has written articles in national and state funeral magazines. Professor Ludlum has a Bachelor's and Master's degree in economics, a Master's degree in communication and a Juris Doctor, all from the University of Oklahoma. Professor Ludlum is the Education Director for Osiris Funeral Home Software.



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COMPLIANCE ALERT: Handling Vendor Surcharges

By Chris Farmer, NFDA General Counsel



As many of you may have read, in response to the soaring inflation that is gripping the country (an increase of 6.8% compared to 12 months ago and its highest level in 39 years), many vendors have begun instituting surcharges on their products. Perhaps you've read about these surcharges or you might have received a letter directly from your vendor. Because the price of their raw materials and supplies has surged due to a worldwide shortage of supplies, companies are favoring a temporary surcharge, as opposed to a general base price increase, which would be instituted to address the inflationary pressures that continue to drive up costs.

The increasing commoditization of funeral goods has resulted in more price sensitivity than in years past. While everyone wants to provide the families they serve with quality products, increasing competition, especially from overseas, has resulted in increased competition in price and quality, forcing vendors to keep their prices in line with ever increasing

market pressures.

Tacking on a surcharge, as opposed to increasing the base price, is a way to recover increased costs while conveying the temporary intent of the fee and keeping the base price competitive. How "temporary" these surcharges and the factors that necessitated them are remains to be seen.

How Should Funeral Homes Handle Surcharges?

While some vendors have not commented on how funeral homes should handle the surcharges, a few have advised their funeral home clients to add the surcharge as a line item on the GPL. However, the Federal Trade Commission has previously admonished funeral homes about adding a surcharge as a line item on the GPL since it is a violation of the Funeral Rule.

This came up several years ago when gas prices spiked and some businesses imposed a fuel surcharge on their customers. Several

funeral homes wanted to do the same for removal, hearse and limousine charges, but the FTC Staff stated that they considered such an addition to be a potential Funeral Rule violation since the consumer should be able to look at one price to determine whether he or she wants to purchase a service and not be required to add up various fees for a service the Funeral Rule requires be itemized.

The FTC Staff stated that funeral homes should simply raise prices for these items to cover higher gas prices, rather than separating the fees for the service. The same rationale would apply here. If the funeral home is incurring a commodities surcharge, it should simply raise its casket prices or basic services fee to capture increased costs or surcharges.

If you'd like to increase your nondeclinable basic services fee to include a recovery of overhead, such as surcharges, you may add the phrase "and overhead" after the word "services," on your GPL:

The goods and services shown here are those we can provide to our customers. You may choose only the items you desire. However, any funeral arrangements you select will include a charge for our basic services and overhead. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services selected.

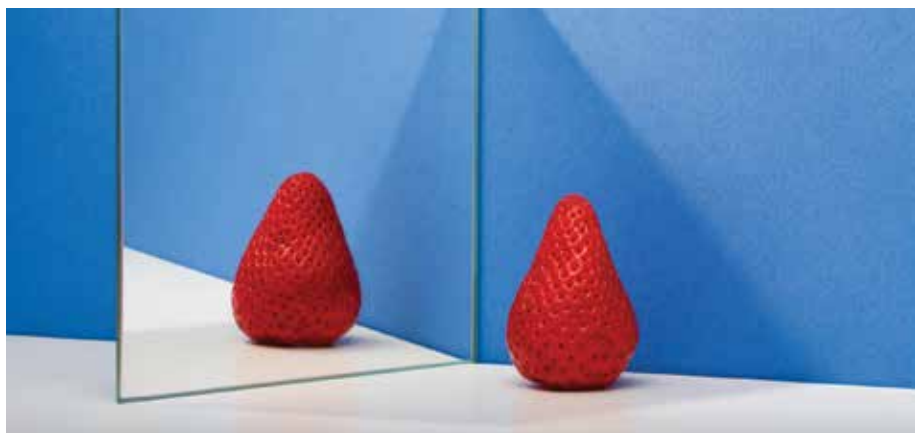
This advice also applies to additional fees and costs you may incur to cover additional PPE and sanitation measures needed to protect funeral home staff from COVID-19, as the FTC does not permit surcharges for PPE or other measures. As with vendor surcharges, you may increase your fees on the GPL to cover additional costs to the funeral home, but you cannot impose a surcharge.

While you battle the myriad challenges COVID has brought on the front lines, NFDA is working hard to support you, prepare you and keep you up to date on the national issues affecting funeral directors and funeral service. Members who have questions should not hesitate to reach out (800-228-6332 or cfarmer@nfda.org).

OBITUARY MIRRORING

What Funeral Service Professionals Should Know

by Christopher L. Farmer, NFDA General Counsel



The issue of websites and posting of obituaries has been around for quite a while and garnered much attention in the funeral service world. Many website providers offer this as a valuable service to clients, providing them a place for communities to learn about the passing of friends, an additional income stream through commissions on the sale of memorial items through the page, and search engine optimization ("SEO"), among other benefits.

Recently, NFDA has been made aware that some website providers are mirroring their funeral home client's obituaries on a page, separate from the funeral home's website. The website providers we have spoken to have said that this is greatly beneficial to the funeral home and that their clients are aware of the practice.

However, it appears as if at least some funeral home owners are not aware that their obituaries are being posted on a website other than their funeral home's webpages. At NFDA, we want to make sure that our members are aware of issues affecting their business and have the information they need to make the best decisions for them and their businesses.

If you have questions about your website or obituaries, we encourage you to reach out to your provider to get more information.

If you do choose to speak to your website provider, issues you might want to ask about include:


• **Commission Schedule.** If your website provider is selling tribute items on your funeral home's webpage and a separate mirrored webpage, are you receiving a commission from sales on the other page and are the commission schedules the same?

• **Opt-Out.** If your website provider is mirroring your obits on a separate webpage, do you have the ability to opt-out from that reproduction on a case-by-case basis (e.g., if the family requests it to be turned off) or opt out from the reproduction all together?

• **The Benefits of Mirroring.** If your website provider is mirroring obits or if they are not but have the ability to do so, ask them the benefits of mirroring and if they recommend it for your business.

We want to make sure our members are fully informed on this issue and can make the decision that is right for them and their business.

In addition, please visit www.nfda.org/LegalForms where you can find information and forms regarding obtaining authorization to post an obituary on the funeral home's and other internet sites and information on reporting a death to a social media site.



MAILING ADDRESS CHANGE FOR VA FORMS

The Department of Veterans Affairs, National Cemetery Administration (NCA) changed its mailing address for submitting the following forms.

- VA Form 40-1330-Claim for Standard Government Headstone or Marker
- VA Form 40-133-M- Claim for Government Medallion for Placement in a Private Cemetery
- VA Form 40-0247-Presidential Memorial Certificate Request Form
- VA Form 27-2008-Application for United States Flag for Burial Purposes

PLEASE MAIL YOUR FORMS AND SUPPORTING DOCUMENTS TO:

NCA FP EVIDENCE INTAKE CENTER
PO BOX 5237
JANESVILLE, WI 53547

For quicker and more secure processing of your claim, you may submit your claim and supporting documents electronically via Direct Upload at access.va.gov. You will be instructed to register during your first log-on attempt.

The Five Phases of Burnout

The term burnout is used to describe feelings of being overworked or overwhelmed by one's working conditions (read toxic work environments, micromanagement, taking on too much, or being asked to do more with less), but it's actually more intricate than that. The World Health Organization recognizes burnout as a form of job-related stress that has not been successfully managed, although it's not classified as a medical condition.

There are five stages of burnout that individuals and organizations must assess and then take action to mitigate the progressively worsening symptoms.

Phase 1: The Honeymoon Phase

When taking on new work, it's common, and even predictable, to experience minor bouts of stress. Stress comes with the newness of a big challenge or career advancement, but most people tend to cope well in this phase as they establish footing and grow into their roles. Company leaders must provide clear expectations, upskilling opportunities, support resources and a commensurate level of autonomy to help employees manage burnout risks at this level.

Phase 2: Onset of Stress

Stress onset can manifest in a number of ways appearing as nervous anxiety, irritability, fatigue or disorganization. Employees must prioritize their decisions as strategic, significant or quick and take an appropriate amount of time to evaluate each type. Mindfulness techniques can also bring people's awareness to changes in their moods, heart rate and other physical changes like muscle tension and tiredness.

Meditative box breathing and other simple techniques can reduce stress throughout the day at this phase. Company leaders can assess employees' stress onset in regular check-ins like 1:1 meetings, daily huddles and pulse surveys. Empathic listening is key to mitigating stress at this point. There are also opportunities for leaders to eliminate work blockers and bottlenecks, drive down the number of emails sent, improve clarity on strategy, and to invest in wellness workshops that connect your workforce with highly engaging, diverse speakers on relevant and timely topics.

Phase 3: Chronic Stress

When stress levels rise faster and more



frequently, the risks for mental and physical health consequences increase and employees could reach a dangerous tipping point. Today's high employee turnover rates, longer recruitment cycles, and shifting workloads can overwhelm remaining staff with too many tasks and decisions to make. The clarity and focus that they need to make sound business decisions or execute tasks safely diminishes as stress graduates into cognitive overload and decision fatigue.

Individuals are encouraged to use available medical benefits, employee assistance plans or seek local counseling. Speaking up and innovating work improvements are also good options. Before employees escalate to this phase, company leaders must prioritize essential work, refine project scopes and reinforce relevant risk and safety training versus forcing staff to do more with less.

Those experiencing chronic stress should seek professional medical and mental health services.

Phase 4: True Burnout

If employees truly reach the point of burnout [not in the way the term is commonly overused], they can experience far more critical symptoms like cynicism and strong pessimism about their work, feelings of incompetence, unwarranted fears, strong desires to escape or self-isolate and other serious physical conditions. These strong behavioral shifts can increase the likelihood for workplace accidents, injuries, disputes and violence; poor decision-making; decision avoidance; bypassing safety protocols or impulsive behaviors (like walking off the job). Employees at this stage can be a danger to themselves, others and your operations; and it means that action is overdue and must be swift.

For individuals experiencing true burnout,

it's time to take a vulnerable, hard look in the mirror and ask, "Is this really the job and company for me?" Real burnout can result from lack of boundaries, people pleasing, being a superhuman (a form of imposter experience), or genuine resentment about a job. How you show up, whether you're leading with strengths, have the ability to delegate work, or actually like your job has the power to shift burnout into overdrive or reverse it. For companies [except those in extenuating circumstances], burnout can be mitigated with better strategic planning and organizational health resources.

Phase 5: Habitual Burnout

This most severe phase of burnout occurs when one's harmful physical and emotional symptoms become embedded and impact their quality of life. This shows up in forms of chronic sadness or depression, mental exhaustion, low self-efficacy and, in the worse cases, as suicidal ideation. National resources at the Substance Abuse and Mental Health Services Administration (SAMHSA) and the National Suicide Prevention Lifeline are here to support us all and we must let go of any feelings of shame, guilt or pride and simply get the help we need! Left unchecked, the consequences of habitual burnout can be devastating at both individual and organizational levels.

Companies must create safe, diverse, inclusive workspaces led by well-trained, empathetic leaders to support employees. High rates of habitual burnout warrant an evaluation of key leadership, budgets, workflows, technologies and more. Both white- and blue-collar employees at all skill levels have a lot more options today and are not sticking around organizations where habitual burnout is prevalent. The level of investment that it could take to reduce habitual burnout could be used far more effectively in earlier stages of this cycle on improved planning, staffing, tooling, and wellness programs.

Burnout doesn't have to be devastating or permanent. Not only is it possible for a person to experience burnout in a job they like and want to keep, but for some people and companies it becomes a catalyst for much needed changes in leadership, culture, compensation and benefits, communications, technology investment, and the ways work gets done.

What's clear is that there are degrees of both personal and corporate accountability in managing burnout risks and that we must all be intentional about developing meaningful solutions to protect ourselves and our businesses.



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