
Memorial Society

Newsletter

October 1998

Annual Meeting

SATURDAY, NOVEMBER 14 AT 1:30 P.M.

THE FOLLEN COMMUNITY CHURCH
755 MASSACHUSETTS AVE.,
LEXINGTON, MA.

There will be a panel discussion of the impact of large funeral-industry corporate chains on the consumer and on independent funeral homes. Participants will include members of the funeral industry and Byron Blanchard of the Memorial Society.

Directions by car:

From Boston, take Rte. 2 to the Rtes. 4 & 225 Lexington exit; follow the exit road past Wilson Farm to Massachusetts Avenue; turn left at rotary. You will see the church immediately on your right.

From the north, south or west: Rte. 128 to Rte. 2 east; take Pleasant Street exit towards Lexington; then same as above.

Street parking is available. There is also a small lot opposite the church, where we may park on the right side only.

By Public Transportation:

Take Bus 62/76 from Alewife, leaving at 1:00. Buses run once an hour and take about 20 minutes. The return bus leaves the stop across the street from the church a few minutes past the half-hour.

Why Should We be Worried About the Chains?

For several years, large corporate chains have been quietly buying local funeral homes all over the country and consolidating their operations. The growing domination of the funeral industry by large corporations has been the subject of major articles in *US News and World Report*, the *New York Times*, the *Wall Street Journal*, *Vanity Fair*, *Time*, the *Boston Globe* and the *Boston Herald*. The principal chains are Service Corporation International (SCI), based in Houston, Texas; The Loewen Group, based in Vancouver, B.C.;

and Stewart Enterprises, based in Louisiana. Usually the public is not aware of the purchase, since the funeral home retains its old name and the former owner is kept on as a salaried employee.

The chains are expanding very rapidly in North America, Europe and Australia. According to the *Herald*, they have acquired fifteen per cent of Massachusetts funeral homes so far. For a while Loewen owned almost all the funeral homes on Cape Cod, until the Attorney General forced them to sell three.

Representatives of the chains maintain that consolidation allows them to cut costs. Although costs do go down, prices almost always go up because these corporations want to maximize profits for their stockholders. One concern for consumers is the effect of competition from chain-owned funeral homes on independent funeral homes. When the chain-owned homes raise their prices, will the independents feel encouraged to raise theirs as well? Alternatively, can the chain-owned homes, backed by big money, lower prices temporarily and drive the independents out of business? Either way, the consumer would be hurt.

The big conglomerates have also been buying smaller, locally-owned chains. Waterman's and Stanetsky, local corporations that each owned several Massachusetts funeral homes, have both been purchased by SCI. The chains are also quietly buying up private cemeteries, which they operate in conjunction with their funeral homes, but so far not here.

In newly revised regulations, the Massachusetts Board of Registration for Funeral Directors requires chain-owned funeral homes to prominently disclose their ownership; however, the rule is being widely ignored. Independent funeral directors and the Memorial Society have a common concern about the impact of chain ownership on all of us.

New FTC Hearings on the Funeral Rule

In 1984 the Federal Trade Commission issued the Trade Regulation Rule on Funeral Industry Practices (the Funeral Rule). The Funeral Rule ensures that you have access to sufficient information to permit you to make informed decisions about which goods and services you wish to purchase; that you do not have to purchase goods and services you do not want or that are not required by law; and that misrepresentations are not

used to influence your purchase. Together with an amendment passed in 1994, the Rule requires (among other things) that a funeral director give a printed price list of his/her goods and services to anyone who asks, and that he/she quote prices over the phone. Dr. George Richardson, then president of your society, testified at the FTC hearings that resulted in the original Funeral Rule and its 1994 amendments; so did officers of our national organization.

However, there is a major loophole in the Funeral Rule that the industry has been free to exploit. Under the heading of "Professional Services" of funeral director and staff, a funeral director may include *all* his overhead, so you pay for all facilities, even those you do not use. Originally intended to cover the arrangements conference, death registration and placing the obituary (items common to all funerals), the "Professional Services" fee has ballooned to become a major portion of the cost of a funeral. It is basic cover charge, something you have to pay in addition to whatever goods and services you select. (Exceptions are the package prices for direct cremation and immediate burial, in which the fee is included.) Because the fee for professional services is inescapable, it has become known among consumer groups and at the FTC as the "Nondeclinable Fee."

The FTC is beginning the formal review of the Funeral Rule. The commission will publish an Advanced Notice of Proposed Rulemaking this fall; public written comments will be invited, due 30 to 60 days thereafter. The actual hearings will be held later, probably in 1999.

FAMSA, our national organization, has petitioned the FTC to rescind the Nondeclinable Fee. Both FAMSA and officers of your Memorial Society intend to testify against the Nondeclinable Fee and other abuses at the hearings, but in order to argue convincingly they need documented evidence. If a funeral director has subjected you to deceptive or misleading practices please contact us, by phone at (617) 859-7990 or letter. In addition to anecdotal evidence we will need copies of invoices, contracts or any other written documents you can provide. No funeral director or other business person is obligated to tell you that you can get a better price from his competitor; the question for the FTC is disclosure and absence of misrepresentation. If after full disclosure you agree to a high price that is your decision. The FTC is concerned only with deception or misrepresentation.

We will also appreciate the help of our members in collecting price lists for our survey. First phone Byron Blanchard at (781) 862-6314 to check that we don't already have the price list (to avoid duplication). Then simply visit each of the funeral homes in your community and request a General Price List (GPL). You do not have to have any further discussion with the staff, but we encourage you to ask questions; most funeral directors

are nice people, eager to help. The Funeral Rule requires funeral homes to provide a GPL to those who ask in person. (Of course, if a funeral home refuses to provide it you should let us know.)

Another needed reform to the current Funeral Rule is its extension to cover cemeteries, casket sellers and monument dealers. Unlike funeral homes, these businesses are currently unregulated, an omission we strongly believe needs to be corrected. The National Funeral Directors Association and the Monument Builders of North America join us in maintaining that all members of the funeral industry should be equally subject to regulation.

New Editions of Good Books

The new, revised editions of *The American Way of Death*, by Jessica Mitford, and *Caring for The Dead*, by Lisa Carlson, are now available. *Caring for the Dead* can be ordered from the Memorial Society at a member's discounted price of \$15 plus \$3 postage. It can also be ordered from FAMSA, P.O. Box 10, Hinesburg, VT 05461, on the same terms. *The American Way of Death* can be ordered through bookstores.

Thank You!

Many members have sent donations this year, some of them sizable. We have not been able to acknowledge them individually, but we want to thank you here and now. Your generosity is appreciated and will be put to good use.

We were surprised and pleased to receive a bequest of \$1000 from the late Mr. Josiah M. Fowler. Others who value our work might also consider remembering the Memorial Society in their will.

Understanding the Anatomical Gift Program in Massachusetts

by Jan Buhrman Osness

Individuals choose to make an anatomical donation because they are either humanitarian and/or they wish to reduce the financial obligations of death. Donating one's body to science is morally justified, and without anatomical donations the study of medicine would be jeopardized.

Body donations are needed in Massachusetts. Any person over the age of 18 can arrange to donate his or her body for medical education and research by enrolling in a body donation program. It is not sufficient to indicate intent on a donor card or driver's license; the donor must sign and have witnessed a legal form. The form, "Instrument of Anatomical Gift", is available

through any of the four Massachusetts medical schools. Since acceptance of an anatomical gift is contingent upon the decision of the medical school at the time of death, alternative plans (burial or cremation) need to be in order prior to death.

The four Massachusetts medical schools which currently accept bodies after death for the purpose of medical study and teaching are Boston University, Harvard University, Tufts University and the University of Massachusetts. All appear to operate under one program, and in fact they together own and maintain Pine Hill Cemetery in Tewksbury, but they operate separately and each has its own policies and procedures.

Whole body donation is one way to reduce costs for burial. However, a potential body donor should not assume that the medical school will bear the entire cost of whole body donation.

All four schools will pay for filing of paperwork, pickup and transportation within Massachusetts and burial in Pine Hill Cemetery, but the school decides on the amount of the payment. The payment is a fixed fee plus so much per mile and is different for each school. The payment amount may be negotiable; ask.

All the schools except Tufts say that they will not make the transportation arrangements, nor will they suggest low-priced funeral homes. Tufts University is much more helpful. It has a licensed funeral director on staff and will take care of pickup, filing of paperwork, and transportation if the family notifies the school rather than an outside funeral director to pick up the body. The other schools should emulate Tufts, or at least contract with a transportation service. To just leave it to the donor or survivors to arrange this seems rather cruel.

There is considerable variation between schools in what happens when they are finished using the body. UMass will provide cremation prior to private burials, and cremation is the only option if the donor chooses Pine Hill. The other three schools will bury the body at Pine Hill in a simple casket with a registered grave at the school's expense. As of July 1, 1998 Harvard University will provide a limited stipend (approximately \$400) to assist in private cremation. The cemetery has an annual memorial service for families of whole body donors. If private burial or cremation is desired, all schools will release the remains to the family.

Despite the fact that the schools assume various basic expenses, a family or estate could end up with an unexpected financial obligation to a funeral director. Some funeral homes receive their reimbursements directly from the school, while others add on charges and bill directly to the family. It pays to shop around. For the donor who wishes to keep expenses to a minimum while using a funeral director, it is important to get a list

of all costs and services and to have an alternate plan in order in the event a body is rejected.

We think there are at least some funeral directors who will accept the medical school payment as full payment, but as of this writing we don't know for sure. Others will charge whatever they wish, including a "Professional Service" charge -- the notorious nondeclinable fee. This is a charge over and above all itemized services ranging from \$500 - \$3000 or more. BE CAREFUL! (See the above article on coming FTC hearings.)

Two funeral homes said they would not perform any services for the Anatomical Gift Program because "the schools do not pay them what their services are worth." One funeral director told us that the medical schools "have plenty of bodies." All the medical schools said they use all the bodies accepted and they will transfer bodies from one school to another as the need arises, but that the body is always followed and cared for by the school who receives.

The Memorial Society has become aware of some recent abuses that consumers should watch for:

- One of our members was surprised to be billed a nondeclinable fee of \$985 (after her husband's body was received by a medical school) for consultation with the funeral director in the event her husband's body was not accepted by the medical school! She had been given neither a GPL nor a Statement of Funeral Goods and Services Selected. She quite properly refused to pay the bill.

- A family was charged the nondeclinable fee after the medical school picked up the body and took care of all services. The family refused to pay and the funeral home did not pursue it.

- A family was sent a bill for washing, disinfecting and dressing the body. When the family called the medical school to question the validity of the charge, they were told the funeral home did not perform any such services.

- A family was quoted a price of \$2100 for cremation and return of the remains to the family. (The schools provide the pine casket.)

If a donor lives on Nantucket or Martha's Vineyard, there is no avoiding the "Professional Service" charge. There is only one funeral home on each island.

The medical schools are aware of the abuses and tell donors and families to ask questions and shop around before deciding on a funeral director. As mentioned above, only Tufts actually handles the arrangements. One medical school administrator stated that "funeral directors do whatever they can to make money...It's a

shame, but most of them get away with it." Medical schools are committed to honoring the wishes of the deceased, and are grateful to the donors..

In Massachusetts family members or other persons may legally care for their own dead. In other words, a family or loved one does not need a licensed funeral director to transport a body if the person is willing to obtain a burial permit and handle the body. All four medical schools said they would receive a body and release a body directly to the family as long as they had the proper paperwork. This is one sure way of cutting out EXTRA charges! But note that the body must be delivered to the school within 24 hours of death, which means careful preplanning and consultation with the authority that will issue the burial permit. If death occurs on or just before a weekend, it may be difficult to get a permit in time.

If you are considering an anatomical donation, request an Instrument of Anatomical Gift form as soon as possible and apply to the school of your choice. All the schools said it is not uncommon for a family to call the school immediately after death and say, "Oh, Mother always wanted to have her body donated..." While schools will consider a body without prior enrollment, if there is any doubt among the family members the body will be declined. If you have been enrolled in a program for several years or more, call or write the school for updated information, since programs and policy change. If you travel out of state frequently or have two residences, enroll in more than one school to ensure your acceptance. Most schools need the body within 24 hours of death and will only pay for transportation within the state.

Caring for Their Own Dead: Obstacles and Success

A number of families have successfully cared for their own dead this year. We only hear the details in a few cases.

In one case, a family in upstate New York sought advice from FAMSAs when their father was dying in Holyoke, Massachusetts. They wanted minimum interaction with the funeral industry, and they wanted their father buried in another state; but, to give time for the distant relatives to come for a graveside service, the burial would be a week after the death.

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Lisa Carlson of FAMSAs referred them to a cooperating funeral director who collected their father's body, embalmed it without cosmetic restoration (since the funeral home has no refrigeration), held it for several days and supplied a simple casket. He filled out the

burial permit but left the space for the funeral home's name blank so that the family's own name could be entered as caregivers. This meant that the family could transport their father's body to the cemetery themselves, as they wished to do.

The Holyoke Board of Health initially refused to issue the burial permit, blocking their right to move the body. The Memorial Society and the Mass. Dept. of Public Health intervened and the board issued the permit. The family was able to take their father home for burial.

The second case involved a family whose infant died in a Boston Hospital just before a three-day weekend. They wanted to take their child's body home to Vermont for burial in their town cemetery. They ran into difficulties when the burial permit office in Boston closed for the weekend. Although there was another, weekend-only office (in the basement of the Boston Medical Center), we had an incorrect phone number. When the family, with our help, finally tracked down the office in person the clerk on duty refused to issue a permit, claiming she needed a (totally unnecessary) letter from the cemetery in Vermont. After a good deal of arguing and persuasion over the phone by Byron Blanchard, the permit was finally issued and the family took their baby home.

Both these cases illustrate the bureaucratic nightmare that caring for your own can still be. The third was an uncomplicated success. When the father of a Cambridge family died and had to be taken to the medical examiner's office (probably because there was no attending physician), the Cambridge Board of Health issued a burial permit without difficulty, and the medical examiner's staff released the body and even helped to place the body in the alternative container and to carry it to their vehicle. It was taken to Mt. Auburn for cremation.

Can You Help Us Find Out More About Cemetery Costs?

In the past year we have received a number of requests for information about cemetery costs and the availability of burial space. The FTC is also interested in the level of disclosure of costs and alternatives. Our all-volunteer staff has not been able to accomplish a comprehensive survey, though clearly one is needed. You can help by obtaining price information from your local public or private cemeteries and forwarding it to us; we will publish the results as soon as we have them and will summarize them in the next newsletter.

Ask for a printed price list. If one is refused, make a note of it. If you can't get a printed price list, ask the cost of the least expensive of the following:

- lot including perpetual care
- vault or grave liner
- opening and closing charges
- minimum marker: must it be purchased from the cemetery?

Ask if there are any other charges, such as administrative fees. Ask if interest is charged on installment payments, and if there is a penalty on missed payments. Can you get a refund if you change your mind? You should also get price information on interment of cremated remains.

Mail us the information you have collected. Thanks in advance for your help.

Boston and Cambridge residents should know that inexpensive burial plots are still available at the municipal cemeteries of both cities.

Price Survey

A new price survey of funeral homes in our area will soon be available on request.

GPL Guide

All funeral homes are required to offer a general price list to potential customers, but the list can be confusing to anyone unfamiliar with arranging a funeral. Using an anonymous sample list, we have prepared a step-by-step guide to interpretation. Copies will be available at the annual meeting, or we will mail one on request.

Monitoring the Board of Registration by Byron Blanchard

Jack Osgood and Byron Blanchard continue to attend all the meetings of the Board of Registration in Embalming and Funeral Directing, held twice a month. The Board is much more comfortable with our presence. Jack has had some success in finding out what sorts of complaints the Board receives and how they are handled. The process is still mostly secret. The one public hearing scheduled was not held because consent agreements were reached with the two defendants. The complaint had been filed four years ago!

One defendant admitted to not giving the Statement of Funeral Goods and Services Selected and forging the signature on an authorization to cremate. He

received a three-year suspension of his registration, but the suspension was stayed. The other defendant in this case, the owner of the establishment, agreed to no violation but did refund his charges.

We notified Bruce Mohl of the *Boston Globe*, who came to the aborted public hearing and later reported the consent agreements in his Sunday Consumer Beat column. After Mohl left, the Board Chairman pointedly asked each of the Board members whether they had invited Mohl; it seems that media attention is most unwelcome.

As we reported last year, the Assistant Attorney General in charge of Open Meeting issues wrote to the Board advising them that their closed "adjudicatory sessions" were unlawful, that such closed sessions were only proper to discuss the decision after hearing the facts in a public hearing. He has been unwilling to take any action to enforce his decision. He suggested that one Board member meet separately with the complainant and the defendant and report to the full Board his recommendation as to whether to proceed to public hearing. After the second Sept. 1998 Board meeting one Board member did meet privately with a complainant. It remains to be seen what happens next.

At a recent FAMSA Board meeting I met the FAMSA Treasurer, Ernie Marriner, who also monitors the Maine Board of Registration. He reports that the Maine Attorney General doesn't tolerate closed sessions, so they don't have any. An investigator reports the essence of the complaint and the response to the Board in open session, without naming names. On the basis of that report, the Board decides whether to schedule a formal public hearing. Marriner reports that the Maine Board actually does discipline funeral directors who get out of line.

After years of effort the Board of Registration finally issued a revised set of regulations for funeral directors effective March 20, 1998. Among helpful additions are a requirement for disclosure of ownership (so people know when they are dealing with a chain-owned establishment), and a requirement that "Cremation Societies" that are for-profit businesses disclose that fact.

Among the items that will raise costs for funeral directors and hence prices is a limitation on who can ride in a vehicle with "hearse" plates. Only funeral home employees and "clergyperson" may ride in such a vehicle. This limitation is aimed at some small funeral homes that use a sport-utility vehicle with hearse plates for removals and for family use. The Chairman of the Board explained that it is, in his opinion, a serious health hazard to ride in a vehicle that has ever carried a dead

body, but that funeral service professionals and clergypersons must take such risks as part of their professional duty.

This whole business of "hearse" plates is unique to Massachusetts, no other state has them.

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Welfare Funerals

The state will pay \$1100 to a funeral director towards the funeral and burial of an indigent person as long as the total cost does not exceed \$1500. In other words, friends and family can contribute no more than \$400. These dollar amounts are defined in the General Laws and have not changed in fifteen years; they are supposed to cover a whole "conventional" funeral with viewing, service, purchase of burial plot, opening, etc. The cemetery costs alone can be greater than the total allowed amount. The funeral director must pay the cemetery costs out of the allowance, but he has no control over those costs; that isn't fair.

Legislation is needed to increase the allowance to account for inflation and also to define and pay the cemetery costs separately.

Prepaid funeral contracts

The regulations governing prepaid funeral contracts funded by funeral trusts are pretty good. The biggest lack is a guarantee fund to protect against fraud. In 1994 a funeral director was found to have spent several hundred thousand dollars of prepayment money instead of depositing it in a trust. While he served a year in jail, his victims were not compensated. Some sort of guarantee fund is needed; there is one to protect victims of attorneys who steal from clients, why not one for prepaid funeral contracts?

Prepaid funeral contracts funded by insurance are regulated only by the Dept. of Insurance. We don't know how well protected consumers are in this case. If any member with knowledge of insurance regulation would help us understand we would much appreciate the help.

We do know that insurance-funded contracts refund a much smaller portion of the payment in case of cancellation, compared to trust-funded contracts. The latter return at least 90% of the money, including accumulated earnings.

Funeral and Memorial Societies of America

Our national organization FAMSA is an important resource and a national force representing consumers. Memorial Society members may remember Lisa Carlson, who spoke to our annual meeting several years ago. Lisa is now Executive Director of FAMSA and is doing a great job. Each of the 120 Societies sends 13.5% of its dues and contribution income to support FAMSA

Your Treasurer, Byron Blanchard, was just elected to the Board of Directors of FAMSA and to the post of Secretary. He also serves on the Legislative and Finance committees of FAMSA. The FAMSA Board meets four times per year.

If you have internet access, you should visit the FAMSA web site "www.funerals.org/famsa" which has a wealth of information and lots of links to related sites. FAMSA also publishes a quarterly newsletter to which you can subscribe. Their mail address is, PO Box 10, Hinesburg, VT 05461, phone 802-482-3437

Nominating Report

President - John Van Dusen (Lawyer, Marblehead)
Vice President - Jan Buhrman Osnoss (Librarian, Martha's Vineyard)
Treasurer - Byron Blanchard (Engineer, Lexington)
Clerk - Paula Blanchard (Writer, Lexington)

Board Members in addition to above:

Harry L. Jacobs (Retired psychologist/physiologist, Wayland)
Jack Osgood (Retired technical sales, Boston)
George S. Richardson (Physician, Nahant)
Susan Twist (Church Administrator, Boston)

PROXY

(Please vote by proxy if you do not plan to attend the Annual Meeting. Complete this form and send it to: The Memorial Society, 66 Marlborough Street, Boston, MA 02116.

PROXY VOTE: (Fill in only if you will not attend the Annual Meeting on Saturday, November 14, 1998.)

I hereby authorize the Clerk of the Society to vote for:

- | | | |
|----------------------------------------------------------|-----|----|
| (1) The Slate of Officers as proposed | Yes | No |
| (2) Such matters as may lawfully come before the meeting | Yes | No |

Signature:

Date:.

VOLUNTARY CONTRIBUTION FORM

Yes, I would like to support The Memorial Society. The one-time membership fee covers only a portion of the Society's expenses. Your inclusion of a tax-deductible contribution is greatly appreciated.

Contributions: () \$5; () \$15; () \$25; () \$40; () \$60; () \$100; () Other _____

Thank you very much for your consideration.

Memorial Society
66 Marlborough St.
Boston, MA 02116

ANNUAL MEETING NOTICE
Saturday, November 14, 1998, 1:30 P.M.
East Lexington, Follen Community Church