

Funeral Service Regulation

Funerals and burials are less a consumer purchase than a life event, fraught with grief and confusion. Strong, independent regulation is critical to safeguard buyers at this vulnerable time. A “bill of rights” would help consumers navigate a sometimes confusing and expensive process.

Few of life’s purchases cost three to fifteen thousand dollars, and for those that do—a car or a home improvement, for example—we often research carefully, collect bids, and compare service quality before spending our money. But funerals and burials are less a purchase than a life event, fraught with grief and confusion, for which none of us can be fully prepared.

Unfortunately, funerals are also an expensive product, and the devastation of a recent death is only compounded when families face “sticker shock” or poor care from a funeral home, monument company, insurer or cemetery. In Texas, the funeral and burial industries come under the jurisdiction of four separate state agencies. Each of these agencies has different policies and procedures with respect to complaints.

In 2000, Consumers Union issued a report based on nearly 300 consumer complaints related to funeral services and found a pattern of problems in the sale of funeral services, as well as problems with the enforcement of existing laws. During the Sunset Review of the Texas Funeral Service Commission and the Texas Department of Banking, some of the recommendations from our report were used to make changes to funeral regulation.

However, the agency with primary

authority over the funeral industry, the Texas Funeral Service Commission, has had a history of problems that led the Legislature to extend Sunset Review.

For nearly two decades CU has worked on funeral service regulation in Texas. This perspective has led us to the conclusion that Texas’ oversight of funerals must be reformed.

Fundamental to problems at the agency is an imbalance between a very small agency and a very large and powerful industry. Over the course of many years, instances of industry influence have affected the agency’s ability to provide objective, consumer-oriented regulation of funeral services. The structure of funeral industry regulation must be changed in order to assure adequate future oversight of these companies.

In Texas, more than 1,300 funeral homes provide services for the approximately 150,000 deaths expected in our state this year. Texas consumers will spend more than \$950 million this year for funeral and burial costs. Some of those costs have been paid through prepaid funeral contracts, which now total more than \$2 billion in Texas. An industry of this size can exert enormous influence over a small regulatory agency that has been controlled historically by a governing body whose membership is heavily influenced by industry

representatives.

Assuring an arms-length relationship with the regulated funeral services industry as well as consumer-oriented regulation should be a priority for reform. One way to assure agency independence from the industry is to move the responsibilities to the Texas Department of Licensing and Regulation. At a minimum, some of the public members on the agency’s board should be charged with representing the interests of consumers and should have demonstrated experience in promoting funeral consumer protection. In addition, the Commission should employ consumer representatives to resolve consumer complaints against the funeral industry, who can serve as advocates on the part of consumers within the agency.

Also, Texas law should outline funeral consumers’ rights. Establishing a consumer bill of rights in statute will provide a starting point for rebuilding state regulation and a guidepost for state regulators.

RECOMMENDATIONS

- Reform the funeral regulatory agency to assure an arms-length relationship with the funeral industry and consumer-oriented regulation.
- Establish a funeral consumer bill of rights that outlines how consumers can expect to be treated by the funeral industry and regulators.

In Short

A consumers bill of rights would tell consumers clearly what they should expect from funeral services and where they should go for help if the services go wrong. Four different agencies supervise different aspects of funeral and burial services, and consumers don’t know their rights.