



National Funeral Directors Association  
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## 2011 POLICY

### VARIABLE BASIC SERVICES FEE

#### NFDA Position

Continue to advocate and encourage the FTC to amend the Funeral Rule and replace the static Basic Services Fee with a variable Basic Service Fee that funeral homes could set depending upon the type of funeral and disposition selected by the consumer.

#### BACKGROUND

Currently, the Funeral Rule allows for a “Basic Services Fee” to be charged by the funeral home to cover the professional services of the funeral director and staff. The rule allows this fee to include a charge for performing and conducting an arrangements conference, planning the funeral, securing the necessary permits, preparing notices, coordinating the cemetery or crematory arrangements and unallocated overhead. However, with the exception of the four minimal service packages of receiving remains, forwarding remains, direct cremation, and immediate burial, the basic services fee is a flat charge that cannot vary regardless of the type of funeral or disposition selected by the consumer.

#### DISCUSSION

In October 2003, the New Jersey Funeral Directors Association (“NJFDA”) presented a resolution to the Policy Board advocating that NFDA seek a modification to the definition of the Basic Services Fee used in the FTC Funeral Rule. Under the resolution, which was approved by the Policy Board, NFDA was directed to file supplemental comments with the FTC requesting that the definition of the “Services of Funeral Director and Staff” be modified to the following:

*“The term ‘Arrangement Service Fee’ means the services of the funeral provider in conducting the arrangements conference, implementing the arrangement instructions, obtaining permits and authorizations and coordinating with other providers of death care services, such as cemeteries, crematories, vault companies, clergy, newspapers, monument dealers, etc. The Arrangement Service Fee may vary, depending upon the type of funeral and/or disposition services selected.”*

The Advocacy Committee, while in support of the variable basic services fee, believed that the term “Arrangement Services Fee” was confusing for consumers. It recommended that NFDA not request the replacement of the term “Services of Funeral Director and Staff” with

“Arrangement Services Fee”. Otherwise, it supported the new definition that was proposed in the NJFDA resolution. The position of the Advocacy Committee was discussed with the Executive Director of NJFDA who indicated that the revised position was acceptable since the primary intent of the resolution was to allow a variable Basic Services Fee as opposed to static Basic Services Fee.

On January 30, 2004, the Executive Board approved the supplemental comments requesting that the definition of “Services of Funeral Director and Staff” be revised to permit the fee for the basic services to vary depending upon the type of funeral or disposition selected by the consumer. Those supplemental comments were filed with the FTC on February 2, 2004. While not responding to our request directly, the FTC closed their 10 year review of the funeral rule in March 2008 without making any changes to it. By this action, they indirectly answered our petition with a resounding “sorry, no sale”. However, our cause was not completely lost., In 2009, we did have a modest victory when the FTC issued a Opinion Letter, in response to an NFDA request, that supported our position and stated that the “[Funeral] Rule permits funeral providers to reduce their basic services fees for forwarding remains, receiving remains, direct cremations, and immediate burials, in order to reflect the proportionate reduction in facilities overhead and services of funeral director and staff required to provide them.”. Persistence pays off when you least expect it!

In 2011, NFDA will again present this issue to the FTC and its new Chairman for consideration and hopefully agreement that the same logic they used in the 2009 Opinion Letter could be applied to any and all funerals regardless of the type and/or disposition and at the discretion of the funeral director.

**NFDA Governance History:**

2003: Committee Action 1/23/03; Policy Board Action 3/24/03

2004: Committee Action 1/26/04; Policy Board Action 3/15/04

2005: Committee Action 1/18/05; Policy Board Action 3/7/05

2006: Committee Action 1/17/06; Policy Board Action 3/8/06

2007: Committee Action 1/16/07; Policy Board Action 3/26/07

2008: Committee Action 1/14/08; Policy Board Action 3/10/08

2009: Committee Action 1/29/09; Policy Board Action 3/30/09

2010: Committee Action 1/20/10; Policy Board Action 3/08/10

2011: Committee Action 1/27/11; Policy Board Action 3/09/11

Attest: NFDA Policy Board (original resolution)      Date: October 18, 2003      File Code: RES074/Policybd