



# Funeral Consumers Alliance of the Finger Lakes

## Spring 2010 Newsletter

P.O. Box 134, Ithaca, NY 14851-0134 • (607) 273-8316

E-mail: [info@imsfca.org](mailto:info@imsfca.org) • Website: [www.imsfca.org](http://www.imsfca.org)

### ANNUAL MEETING APRIL 25

The FCA of the Finger Lakes will meet Sunday, April 25, 2010, at 2:00 PM in the auditorium at Kendal of Ithaca, 2230 North Triphammer Road, Ithaca. The public is invited. Bring friends. Park in either the north or south parking area.

#### Speaker and subject

Bill Hawley, Executive Director of Lifelong

#### Medical Orders for Life Sustaining Treatment

Governor Paterson recently signed into law the Family Health Care Decision Act, which permits family members and certain others to make decisions about medical treatment for those who lack both decision-making capacity and advance directives for medical care. The new law is welcomed by those who promote planning for medical decisions and funeral needs. So we now have the health-care proxy, the living will, the MOLST, and the Family Health Care Decision Act. How do all these come together?

#### Alliance Business

President Barry Adams will provide a status report on contractual relations between the Alliance and area funeral homes.

#### Election of Officers and Board of Directors

The following slate of nominees for 1-year terms as officers or 3-year terms as Directors will be presented.

Officers: President, Barry Adams

Vice-president, Milton Zaitlin

Secretary, Catherine Darrow

Treasurer, Dominick Paolillo

Director for 2010-2013: Louise Richards

Additional nominees may be presented, as the search for candidates was still in progress when the Newsletter went to press.

David Bandler leaves the Board after contributing much to the Alliance's program during his 3-year term: ideas and materials for communications, one of our end-of-life planning documents (see the FCAFL website), and several public presentations about funeral planning. David has agreed to be an advisor to the Board. Hearty thanks to you, David.

### IMPENDING CHANGES IN ARRANGEMENTS Between FCA of the Finger Lakes and Funeral Homes That Provide Services For Members

Significant changes in relationships between the Alliance and funeral homes that participate in its member-service program (those that sign contracts with us) will commence on October 16, 2010. These changes may affect service prices as well as the participation of some funeral homes in the program. Details are not yet available. This situation report begins with some background explanations.

**Present arrangement.** The current relationship between the FCA of the Finger Lakes and participating funeral homes has three main aspects. The first is that these businesses make available to Alliance members the five types of service described in our brochure. The second is that the price of a each type of service is the same regardless of which participating business provides the service. The third aspect, in effect for nearly 10 years, is that an organization of funeral directors known as the Tompkins County Unified Funeral Directors Association (TCUFDA) negotiates uniform contracts on behalf of the individual businesses that provide services to FCAFL members. The current set of contracts as negotiated by the TCUFDA and signed by each of the 10 participating funeral homes listed in our brochure will expire at midnight on October 15, 2010.

**Developments.** The FCAFL Board of Directors began reconsidering contracts, services and prices last fall. In November the Board voted to negotiate only for services, not for prices, in future contracts with funeral homes. It proposed that each business that agrees to participate in the FCAFL program sign a contract describing the five types of service that

#### Good News from the IRS

The Funeral Consumers Alliance of the Finger Lakes recently received a determination of tax exemption from the U.S. Internal Revenue Service. This exemption is retroactive to the founding date of the organization in 1958. The Alliance is now officially recognized as a charitable organization whose programs and objectives are consistent with Section 501(c)(3) of the IRS Code. Your donations to the Alliance are tax-deductible.

will be made available to FCAFL members. Instead of stating prices as part of these contracts, each funeral home would determine its own prices and send annually to the FCAFL its prices for the five service types for the next calendar year. The Board would report these prices to the members, as it does now. This arrangement is similar to that between many affiliates of the national Funeral Consumers Alliance and their cooperating funeral homes.

The Board considered several factors in reaching its decision. For one thing, our price survey (see the Fall 2009 Newsletter and the FCAFL Web site) revealed that member prices for service Types I and II (direct cremation and immediate burial) are not significantly different from the list prices at the more reasonably priced funeral homes. Prices similar to or lower than the contract prices for these service types can be obtained by the general public at some funeral homes in or near Ithaca. As another matter, taking the prices for services off the negotiating table should remove a source of friction from our relations with participating funeral homes. Finally, the IRS looks askance at organizations that enjoy tax-exempt status (as we do) if they have contractual relations that provide special purchasing benefits to their members that are not available to the general public. These factors moved the Board away from the tradition of negotiating prices for services from funeral homes. The Board also considered that members and their families, on seeing the difference in prices charged by funeral homes for the same services, will become more cost-conscious funeral buyers and advocates on behalf of funeral consumers generally.

In December the Board of Directors contacted the TCUFDA and proposed that for the contract term beginning in October 2010, participating funeral homes (a) agree to continue offering our members the five service types as currently defined, (b) dispense with negotiating about prices, and (c) provide the FCAFL with prices individually on an annual basis. In March the TCUFDA rejected this proposal and indicated its wish to negotiate uniform prices for each service type.

Because our contracts are made with individual

funeral directors and not the TCUFDA, and because our Board had voted to cease the practice of negotiating prices, we decided to turn directly to individual funeral directors and invite them to continue participating in the FCAFL's member-service program and to set their own prices as described above. The TCUFDA was informed of this decision in a letter dated March 26.

**Members have been getting and may continue to get special arrangements.** Up to now the contracts between the FCAFL and each participating funeral home make available to FCAFL members three types of service that are available to the general public only when customers order service elements individually. These FCAFL service types are Type III (ceremony followed by cremation), Type IV (ceremony followed by burial), and Type V (donation of body to a medical school). A customer not a member of the FCAFL but wanting to purchase service equivalent to Type III, for example, would be obliged to order and pay for at least the following elements: basic arrangements, body pickup, supervision of the ceremony, and a cremation container. Transportation to the crematorium might bring an additional charge. (The crematory charge is added to the funeral home's charges in all cases, for FCAFL members and non-members alike.) Similarly, the minimum elements of the FCAFL's service Type IV are basic arrangements, body pickup, supervision of the ceremony, and a simple casket or alternative container. A vault (outer container for burial) and transportation to a cemetery outside the locality would bring additional charges. (Cemetery costs are also additional in all cases, for FCAFL members and non-members alike.)

Service packages equivalent to the FCAFL's Type III and Type IV do not appear on General Price Lists at any funeral homes in New York State because most bundling of funeral services or merchandise and services on price lists is forbidden by state law. This prohibition prevents funeral homes from forcing customers to buy funeral packages containing elements they don't want.

Most funeral homes' price lists do not mention body donation. The few funeral homes in the FCAFL's

**The Funeral Consumers Alliance of the Finger Lakes, Inc.**, founded in 1958 as the Ithaca Memorial Society, is a non-profit, tax-exempt, public-service organization that promotes advance planning of funeral arrangements and consumer education and protection with respect to funeral-related issues. Membership is free and open to all. The Alliance contracts with funeral homes for simple, dignified, reasonably priced services for its members. Volunteers provide all other services and programs. A Board of Directors is elected by the members. The FCAFL is supported entirely by donations and is a member of the national Funeral Consumers Alliance, Inc., which has more than 100 affiliates. This Newsletter is published twice a year and is freely available.

**The Board of Directors, 2009–2010:** Barry Adams, President; Milton Zaitlin, Vice President; Catherine Darrow, Secretary; Dominick Paolillo Jr., Treasurer; David Bandler (to 2010); Carol Hardy (to 2012), Robert Cotts (to 2012), Charles Elliott (to 2012), Louise Richards (to 2010), Wayne Sinclair (to 2012). Advisor: Philip S. Winn.

service area that do list a price for this option do not indicate what service elements are included. Some funeral homes calculate the complete price for body donation from the prices of three service elements: basic arrangements, body pickup, and livery. (Information on reducing or eliminating the cost of body donation is available at the FCAFL Web site.)

FCAFL service Types I and II are equivalent to the services called direct cremation and immediate burial (= direct burial), respectively, on nearly all funeral homes' General Price Lists. All costs, except those from external providers such as crematories and cemeteries, are included in the listed prices of these services. Although direct cremation and immediate burial are service packages, they represent minimal service and are legal under provisions of the Federal Trade Commission's Funeral Rule.

**Outlook for contractual services.** The Board of Directors expects that some of the currently participating funeral businesses will wish to continue their relationships with the FCAFL. Many sets of funeral arrangements are involved, so these businesses would have a financial incentive to continue.

Changing the methods of making contracts and setting prices will not affect the way FCAFL records members' preferences or the way records are handled by the FCAFL and participating funeral homes. Firm prices for the five service types will be publicized each year, just as they are now, in written materials distributed by the FCAFL and posted on its Web site.

Because participating funeral homes will each set their prices for services to FCAFL members, these prices may reflect differences among funeral homes as seen by the general public. Members who are concerned about price can change their preference for the funeral home that will handle their needs if they wish to do so. And all members can count on the FCAFL to continue to report funeral prices, to draw attention to differences among funeral homes, and to encourage selection of cost-controlled death-care arrangements.

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### **On Funeral Pricing and Consumer Protection by the FTC Funeral Rule**

Are you "up to speed" on funeral pricing? Would you know how to limit the price of a funeral if you had to arrange one? Would you know how to compare prices of funeral arrangements at different funeral homes? Do you understand how prices available to FCAFL members are related to prices available to the general public? For this knowledge, you would need to be able to interpret a funeral home's General Price List, or GPL. This article is a GPL primer.

Every funeral home in the USA is required to have a General Price List. Its title and much of its content are specified by the Federal Trade Commission's

"Funeral Rule," a set of regulations that has been in effect since 1984. It was revised in 1994 and is occasionally fine-tuned by additional rulings. It requires a funeral business to give to any requesting person a price list with accurate, itemized price information and other disclosures about funeral goods and services.

The Funeral Rule requires that a GPL show itemized prices for 16 categories of services and products, if they are offered for sale, so customers can choose only the items they want.

- Forwarding remains to another funeral home, together with a list of the services provided for any quoted price.
- Receiving remains from another funeral home, together with a list of the services provided for any quoted price.
- The price range for direct cremations, together with:
  - a separate price for a direct cremation where the purchaser provides the container;
  - separate prices for each direct cremation offered that includes an alternative container; and
  - a description of the services and container (where applicable), included in each price.
- The price range for the immediate (= direct) burials offered by the funeral provider, together with:
  - a separate price for an immediate burial where the purchaser provides the casket;
  - separate prices for each immediate burial offered that includes a casket or alternative container; and
  - a description of the services and container (where applicable) included in that price.
- Transfer of remains to funeral home.
- Embalming.
- Other preparation of the body.
- Use of facilities and staff for viewing.
- Use of facilities and staff for funeral ceremony.
- Use of facilities and staff for memorial service.
- Use of facilities and staff for graveside service.
- Use of hearse.
- Use of limousine.
- A casket price list or the range of casket prices and a statement that a complete list will be provided.
- An outer burial container (vault) price list or the range of prices and a statement that a complete list will be provided.

(continued overleaf)

#### **Support the work of the Alliance**

A self-addressed envelope for your tax-deductible donation is enclosed with this newsletter.

Your contributions are used exclusively for services to members and the public. They are essential for the Alliance's operation.

All donations are gratefully acknowledged.

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• The charge for basic services of funeral director and staff (= overhead charge) together with a list of what is included in basic services. If the basic services fee is non-declinable, meaning that it will be added to the price of other purchases, the GPL must say so. The basic services charge is included in each of the first four items in this list, but not in any other items.

The GPL, and price lists for caskets and vaults if applicable, must be given to a prospective customer at the beginning of any discussion about prices or purchases. Telephone disclosure of prices, if requested, is also required.

Several disclosures are required to be in close proximity to the relevant parts of the GPL. Quotations indicate FTC language.

• "The goods and services shown below 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 you selected."

• "Except in certain special cases, embalming is

not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial."

• "If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are... (specify containers)"

• Disclosures about prices of caskets, outer burial containers (vaults), and basic services as noted in the list description above.

The Funeral Rule also prohibits a funeral director from: misrepresenting legal, crematory, and cemetery requirements; embalming for a fee without permission; requiring the purchase of a casket for direct cremation; requiring consumers to buy certain funeral goods or services as a condition for furnishing other funeral goods or services; or engaging in other deceptive or unfair practices.

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