

OREGON MORTUARY AND CEMETERY BOARD

MEMO

TO: INTERESTED PARTIES

FROM: DAVID KOACH, EXECUTIVE DIRECTOR

DATE: SEPTEMBER 22, 2004

SUBJECT: 5-DAY PRENEED CONTRACT CANCELLATION PRIVILEGE

OAR 830-030-0100(18) provides that "Licensees shall, in their preneed sales programs, include a reasonable period of not less than five days during which purchasers are extended the privilege of canceling their purchase contracts."

During its regular meeting on July 27, 2004, the Board formally interpreted OAR 830-030-0100(18) to mean that licensees are required to provide written disclosure of the 5-day cancellation privilege.

The Board recommends printing the written disclosure on the preneed sales contract. However, the Board concluded that providing written disclosure on the General Price List or on a separate piece of paper would also suffice. Although the rule is silent on the matter, the Board took the position that written disclosure of the 5-day cancellation privilege is not required on irrevocable contracts.

The Board did not decide upon the specific language to be included in the required written disclosure. For the convenience of licensees, staff recommends the following language:

The purchaser may cancel this prearrangement sales contract within five (5) days and receive a full money-back refund.

Licensees may use other language so long as the true intent of the 5-day cancellation privilege is conveyed to the purchaser in writing.

NOTE: OAR 830-030-0100(18) does not conflict with the 100 per cent refund provisions in ORS 97.943(8). Under ORS 97.943(8), the purchaser may cancel a prearrangement contract at any time prior to the death of the beneficiary, but the certified provider is entitled to retain any amount paid for merchandise already delivered. The intent of OAR 830-030-0100(18) is to establish a cooling off period. Under OAR 830-030-0100(18), for a brief 5-day period, the consumer is entitled to cancel for a full, money-back refund.