

CANA Comments on the FTC Funeral Rule

About CANA

Modern cremation came to the United States with passionate European immigrants who spread the word of cremation’s beauty and hygiene. These cremation pioneers formed the Cremation Association of North America in 1913 and went on to establish best practices and updated laws, as appropriate in each state, to this date.

CANA Membership is comprised of funeral homes, cemeteries, crematories, associations, schools, students, suppliers and consultants—all of whom are interested in the business side of cremation and offering quality service to the consumer. Of CANA’s 3300 member businesses, 2,783 fall under FTC oversight, meaning they sell funeral products and services directly to consumers. The remainder are cemeteries, third party crematories, and other suppliers.

CANA was founded by cemetery members who established the first crematories in the United States. Currently, crematories are not limited to cemetery property but can be independent businesses or on funeral home property. States license crematories and crematory operators separately from funeral or cemetery operations.

Year	Number of crematories
1983	727
2009	2121
2014	2867
2019	3105

Roughly one third, or 1,000, crematories, are located on nonprofit cemetery property and therefore not regulated by the FTC. These crematories conduct cremations for funeral homes in local areas. Legislation in five states requires crematories to be on nonprofit cemetery property. All states have some non-profit crematories, typically on municipal or religious cemetery property.

Cremation Perspective

Cremation as a form of disposition has been legal in the United States since 1876; however, the national cremation rate was only 12.4% in 1983. In 2019, the US cremation rate was 54.6%. CANA projects that the cremation rate will continue to climb to an eventual plateau near 80%.

As cremation rates have grown steadily between 1% and 2% annually, states have put laws and regulations in place to oversee this emerging disposition option. State regulation encompasses every aspect of cremation operations, from business licensing, zoning, emissions, OSHA, and, of course, price disclosure, to name a few. Cremation providers are heavily regulated at the state and local level.

State oversight extends to new forms of disposition. Burial and cremation have always been forms of disposition, along with burial—and now alkaline hydrolysis—and soon natural organic reduction will join them. Regardless of the form of disposition, products and services are the same and related price disclosure is regulated at the state and federal levels.

In the consumer's mind, cremation moved from "preparation for memorialization" to a low-cost alternative to established funeral traditions. From the business perspective, funeral providers largely viewed cremation as less than burial and an afterthought. Now that cremation is the preferred form of disposition, a wide variety of cremation providers have emerged to serve consumers at every point of the continuum of cremation services. This continuum includes direct cremation specialists and extends to full-service funeral homes. Prices vary locally and nationally because of the wide variety of business models and goods and services offered. Cremation is a service, so understanding its pricing requires an understanding of the wide range of staffing and offerings available.

CANA Position

The current Funeral Rule is adequate and CANA members are accustomed to working within it. No new regulations are required. The market and regulatory landscapes have changed since 1983 in favor of consumer protection.

- State regulations are more stringent and go beyond pricing to encompass a full range of consumer protections and the regulation of business practices.
- CANA has developed and routinely updates a model law used by industry and state regulatory agencies to revise and update their cremation laws. CANA also develops and promotes best practices through its education programs.
- The market is more competitive, and consumers are savvier and more informed. Pricing information is more available than ever before through the internet, third party price comparison websites, and funeral providers themselves. As the aversion to discussing death dissipates, consumers are planning ahead and proactively seeking information.
- Pricing disclosures should and must adhere to FTC rules. Whether pricing is posted online or not, it should be a business decision.
- Any funeral provider completing sales via online arrangements must present pricing information in compliance with the Funeral Rule, even though the Rule predates the Internet.

- FTC fines for non-compliance are incredibly high given that the vast majority of funeral homes are small independently-owned businesses. Compliance is a serious matter, but violations are too often levied on a discretionary basis for arbitrary errors in timing or wording not clearly defined in the Funeral Rule. The current fines for violating the Funeral Rule can actually put a small firm out of business.

Every business is unique. Some may sell online and advertise on price. Others may offer traditional funeral home services such as catering or visitation and never post pricing online, but rather prefer to sit down with the family to plan the event. The individual businesses should determine how they market their services and promote their brand.

Conclusion

The FTC Funeral Rule works and should not be changed. States have enacted stringent protections and it is their job to enforce them. Prices are disclosed consistently upon request per the Funeral Rule, whether online or in person. There has never been an issue of transparency in communicating and delivering pricing to consumers. It has been and should continue to be a business decision to post pricing online.