

August 2003

DEATH CARE INDUSTRY

Regulation Varies across States and by Industry Segment



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Highlights of [GAO-03-757](#), a report to congressional requesters

DEATH CARE INDUSTRY

Regulation Varies across States and by Industry Segment

Why GAO Did This Study

Media reports of desecration of graves and human remains and other types of mismanagement at cemeteries and crematories have inspired a debate regarding whether the federal government should take on a greater role in regulating the death care industry, primarily funeral homes, crematories, cemeteries, pre-need sales of funeral plans, and third party sales of funeral goods. The federal government has a limited role in regulating the death care industry, as most regulatory responsibilities are handled at the state level. Because of this, federal policymakers have expressed an interest in understanding the range of practices that are used by the states to regulate the various segments of the death care industry.

Based on surveys of state regulators covering the various segments of the death care industry; and visits to the states of California, Florida, Georgia, Hawaii, New York, and Texas; this report provides information on (1) the structures used by states for regulating the death care industry, and (2) the mechanisms used by states for enforcing their regulations covering the industry. The report also provides information on the resources available to help consumers make informed choices regarding death care transactions. Details on the results of GAO's surveys of the states can be found at: <http://www.gao.gov/cgi-bin/getrpt?GAO-03-831SP>.

www.gao.gov/cgi-bin/getrpt?GAO-03-757.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Laurie Ekstrand at (202) 512-8777 or ekstrandl@gao.gov.

What GAO Found

GAO's research shows that states vary in their approach to regulating the various segments of the death care industry. A majority of states have more than one state organization that is responsible for regulating all or most of the industry segments, whereas fewer states rely on one state organization for regulating the entire death care industry.

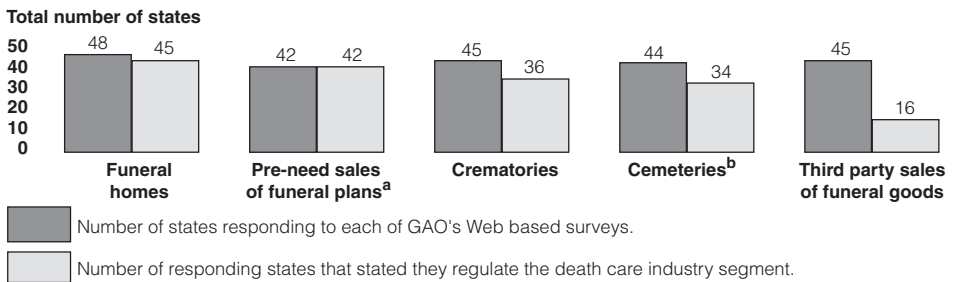
States also vary in the mechanisms they have and use to enforce regulations covering the death care industry and protect consumers. These enforcement mechanisms include licensing or registering businesses and practitioners, inspecting facilities, and taking enforcement actions against those businesses or practitioners that violate state rules or regulations.

The majority of states regulate funeral homes, crematories, cemeteries, and pre-need sales of funeral plans, although the specific licensing requirements vary across the states. Fewer states regulate third party sales of funeral goods. Further, even in those states that regulate each industry segment, not all businesses or practitioners may be subject to licensing or regulation.

Most states also require inspections of funeral homes and crematories, but fewer states require inspections of cemeteries. In most of these states, the inspections are conducted annually. Information obtained from the six case study states show that these inspections tend to focus on such things as the proper posting of licenses, the availability of price lists, and the cleanliness and adequacy of equipment and the facilities.

Since January 1, 2000, a majority of states have taken enforcement actions against funeral homes, funeral directors, or embalmers for violations of a variety of state rules or regulations. Fewer states, however, have taken such actions against the other industry segments.

States' Regulation of the Various Segments of the Death Care Industry



Source: Results from GAO's Web based surveys.

^aGAO's survey focused on sales of pre-need funeral plans funded through trusts, not those funded through insurance.

^bNot all cemeteries are regulated in these states, though. For example, cemeteries operated by municipalities or religious organizations are exempt from regulation in many states.

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Abbreviations

FTC	Federal Trade Commission
NFDA	National Funeral Directors Association

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G A O

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

August 25, 2003

The Honorable Christopher J. Dodd
United States Senate

The Honorable Mark A. Foley
House of Representatives

Media reports of desecration of graves and human remains and other types of mismanagement at cemeteries and crematories have inspired a debate regarding whether the federal government should take on a greater role in regulating the death care industry, that is, the array of providers of funeral and cemetery goods and services, such as funeral directors, embalmers, crematory operators, cemetery operators, sellers of pre-need funeral plans, and third party sellers of funeral goods.¹ In November 2002, bills were introduced in the 107th Congress that, if enacted, would have, among other things (1) provided federal funding to states that agree to comply with newly established federal standards and requirements for regulating various segments of the death care industry and (2) expanded the Federal Trade Commission's (FTC) role in protecting consumers in arranging death care transactions.²

Though these bills did not pass, policymakers continue to express an interest in the range of practices states use to regulate the various segments of the death care industry. This report responds to your requests that we provide information on the regulation of the industry. Specifically, we are reporting on (1) the structures states use for regulating the death care industry and (2) the mechanisms states use for enforcing their regulations pertaining to the death care industry. We are also providing information on resources available to help consumers make informed choices regarding death care transactions (see app. II), as well as consolidation of the death care industry and the interstate nature of death care transactions (see app. X).

¹Third party sellers of funeral goods refer primarily to retailers that are not affiliated with a funeral home or cemetery that sell caskets and other funeral-related products.

²Federal Death Care Inspection and Disclosure Act, S. 3168 and H.R. 5743, 107th Cong. (2002).

We gathered information to address the two primary objectives using a two-pronged approach. First, we developed five Web based surveys to gather information from state regulatory officials covering each of the five death care industry segments.³ Second, we visited and collected more specific information from state regulatory officials, death care industry officials, and consumer association representatives in six states—California, Florida, Georgia, Hawaii, New York, and Texas. California, Florida, Georgia, and Hawaii were selected because of media reports of desecration of graves and human remains and other types of mismanagement at cemeteries and crematories in these states. New York and Texas were selected because they represent states that have comparatively large populations. We will refer to these six states throughout the report as the “case study states.”

We conducted our review between July 2002 and July 2003 in accordance with generally accepted government auditing standards. Appendix I describes our objectives, scope, and methodology in greater detail.

Background

While accurate data are not readily available on how much consumers spend each year on death care transactions, we do know that it is substantial. According to the National Center for Health Statistics, there were about 2.4 million deaths registered in the United States in 2000—the most recent year for which complete data are available. To put that in perspective, the North American Funeral Directors Association reports that of the 2.4 million deaths in 2000, approximately 75 percent resulted in earth burial or entombment and 25 percent resulted in cremation. The Association also reports that based on a 2001 survey, the average adult funeral costs \$5,180. Multiplying this figure by 1,800,000 (75 percent of the 2.4 million deaths) provides an estimate of over \$9.3 billion spent each year on funeral costs alone in the United States. Costs for the estimated 25 percent of deaths that resulted in cremations would be added to that cost figure, but data on cremation costs were not available.

The death care industry has been undergoing a transformation. According to AARP (formerly known as the American Association of Retired Persons), the death care industry has historically been fragmented, with limited overlap between the funeral and cemetery segments of the

³We did not independently verify the accuracy or completeness of the responses to the Web based surveys.

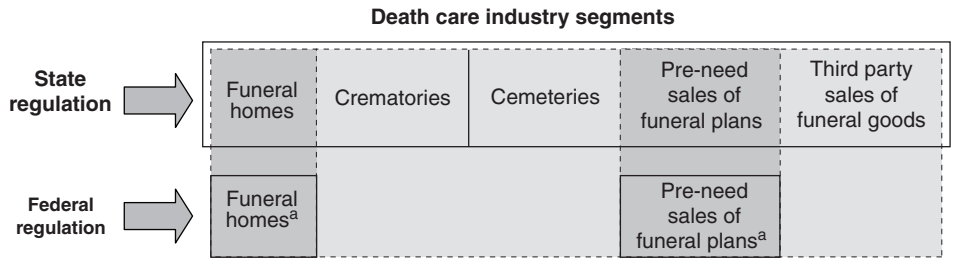
industry.⁴ Today, such distinctions are diminishing as the death care industry is consolidating. Increasingly, funeral directors provide goods and services once exclusive to cemetery operators and similarly, cemetery operators sell items that were once exclusive to the funeral industry. In addition, according to officials within the death care industry, there was increased corporate ownership of local funeral homes and cemeteries in the 1990s, but that trend has reversed in recent years.

AARP attributes much of the change in the death care industry in recent years to the growth of pre-need sales of funeral and cemetery goods. In the past, when nearly all funerals and burials were arranged upon death and survivors went to their local funeral homes and cemeteries at the time of need, comparatively little competition existed within the industry. Today, a growing number of consumers who purchase funeral and cemetery goods and services have shopped around in advance.

Figure 1 shows that the federal government has a limited role in regulating the death care industry and that most regulatory responsibilities regarding the death care industry are handled at the state level. According to FTC's Funeral Rule, any business that sells or offers to sell both funeral goods and funeral services to the public must comply with the Funeral Rule. The Funeral Rule specifies, among other things, that consumers are entitled to price information about funeral goods and services before they purchase them. Thus, the Funeral Rule requires funeral homes and sellers of both pre-need and at-need funeral plans to provide the consumer, at the beginning of the discussion about arrangements for funeral goods and services, a general price list that can be used for comparative shopping, if the consumer so wishes. Since the Funeral Rule only applies to businesses providing both funeral goods and services, it generally does not apply to crematories, cemeteries, or third party sales of funeral goods since these businesses usually provide only merchandise or only services. Aside from FTC's Funeral Rule, there is no regulation that specifically addresses the marketing practices of the death care industry at the federal level.

⁴A typical funeral includes a combination of goods (casket and outer burial container) and services (care of the body, transportation, and use of facilities). A burial typically includes both goods (burial plot and marker) and services (opening and closing of the grave and perpetual care).

Figure 1: State and Federal Governments' Roles in Regulating the Death Care Industry



Source: GAO.

^aSince the Funeral Rule only applies to businesses providing both funeral goods and services, it generally does not apply to crematories, cemeteries, or third party sales of funeral goods.

Consumer associations, death care industry associations, and state regulators have divergent views on whether the federal government should take on a greater role in regulating the death care industry. While consumer associations generally favor an enhanced federal role, representatives of the death care industry generally do not. Support among state regulators for an enhanced federal role is mixed. Complaint data shed little light on this debate. In an earlier report,⁵ we found that comprehensive information on consumer complaints that would indicate the overall nature and extent of problems that consumers experience involving the death care industry was not available. While we were able to obtain some complaint data involving the death care industry from two organizations, the data were not comprehensive because (1) complaint data are not systematically gathered within states or across the states, (2) there is no central repository for death care industry complaint data, (3) not all consumers who experience problems in their death care transactions file complaints, and (4) some consumers may file the same complaint with more than one organization. Nonetheless, the seriousness of the issues involved have prompted some policymakers to consider whether the federal government should take on a greater role in regulating the death care industry.

⁵U.S. General Accounting Office, *Funeral-Related Industries: Complaints and State Laws Vary, and FTC Could Better Manage the Funeral Rule*, GAO/GGD-99-156 (Washington, D.C.: September 1999).

Results in Brief

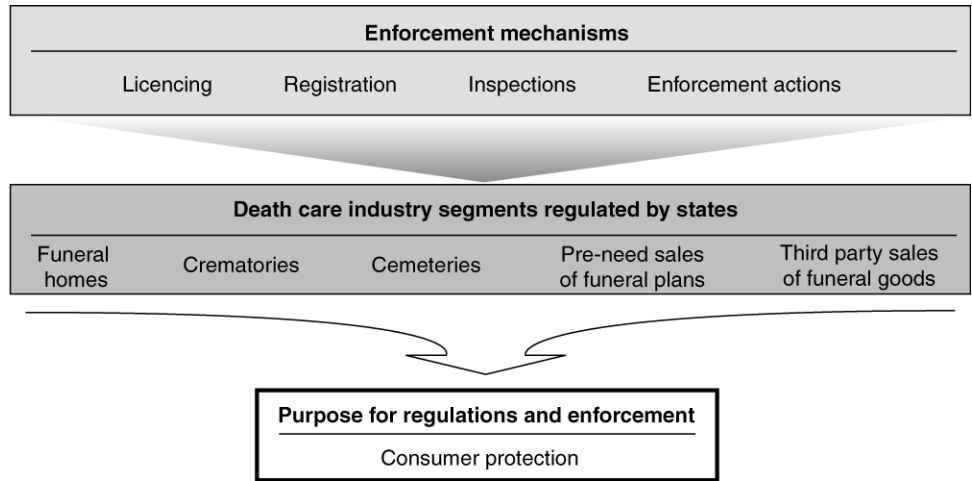
Structure for Regulating the Death Care Industry Varies across States

States vary in their approach to regulating the various segments of the death care industry. Twenty-nine states have more than 1 state organization—such as a state agency, bureau, or board—that are responsible for regulating all or most of the five death care industry segments, whereas 21 states rely on 1 state organization for regulating the death care industry. For example, in Florida, a board within the Department of Business and Professional Regulation and a board within the Department of Financial Services are responsible for regulating segments of the death care industry. In contrast, California has a bureau within the Department of Consumer Affairs that regulates the death care industry. Further, in some states, the state regulatory organization focuses solely on the death care industry, whereas in other states, organizations also have regulatory responsibilities for other industries. For example, the Texas Funeral Service Commission focuses exclusively on regulating death care-related businesses, whereas Hawaii’s Department of Health’s Sanitation Branch regulates some funeral homes but also regulates food preparation industries and other businesses.

Mechanisms for Enforcing Regulations Covering the Death Care Industry Also Vary across States

States also vary in the mechanisms they have and use to enforce regulations covering the various segments of the death care industry. As can be seen in figure 2, the enforcement mechanisms used by states to regulate the death care industry and protect consumers include licensing or registering businesses and practitioners, inspecting facilities, and taking enforcement actions against those individuals or businesses that violate state rules or regulations. The sections that follow present a summary of states’ enforcement mechanisms, segregated by each of the 5 death care industry segments. (More detailed information on the 6 case study states’ regulation of the separate death care industry segments can be found in appendixes III through IX.)

Figure 2: Mechanisms States Use to Enforce Regulations Pertaining to Death Care Industry Segments



Source: GAO.

Funeral Homes, Funeral Directors, and Embalmers

Results of our surveys of state regulators covering the various segments of the death care industry show that funeral homes are regulated and licensed more than any other segment of the death care industry. Table 1 shows that of the 48 states that responded to our survey regarding funeral homes, 45 reported that they regulate funeral homes. Of the 43 states that responded to this issue, all but 1 state regulate all funeral homes.⁶ The majority of states that regulate funeral homes also require funeral homes, funeral directors, and embalmers to be licensed, although specific licensing requirements vary. Our work in the 6 case study states reflect the same variation in licensing requirements for funeral homes, funeral directors, and embalmers found in our survey. For example, California, Florida, Georgia, and Texas require all funeral homes, funeral directors, and embalmers to hold a license to operate in the state. By contrast, Hawaii requires a license only for embalmers and for those funeral homes that perform embalmings, but not for funeral directors or for funeral homes that do not embalm; and in New York, funeral directors are required to be licensed, but there is no separate licensing requirement for embalmers or funeral homes.⁷

⁶In Nebraska, all funeral homes are licensed and regulated except those on designated tribal reservations.

⁷New York State used to license embalmers separately from funeral directors, but this practice ceased in the 1960s.

Table 1: Summary of Surveyed States' Licensing Requirements for Funeral Homes, Funeral Directors, and Embalmers

	Regulates funeral homes	Requires all funeral homes to be licensed	Requires all funeral directors to be licensed	Requires all embalmers to be licensed
Total	45 of 48 responders	42 of 43 responders	42 of 43 responders	41 of 42 responders

Source: Information obtained from answers to GAO's Web based survey of all 50 states.

While most of the states that require inspections of funeral homes conduct those inspections at least annually, the number of inspectors who conduct the inspections varies across the states. Results from our survey of funeral-related issues show that 37 of the 43 responding states require funeral homes to be inspected, with most of these states requiring funeral homes to be inspected at least once a year. Based on the information obtained from our case study states, these inspections tend to focus on such things as whether (1) equipment and supplies are adequate, (2) embalming rooms are clean and properly ventilated, (3) licenses are current and conspicuously displayed, and (4) price lists are readily available. Among the responding states, the number of inspectors that conduct inspections of funeral homes ranges from a low of 1 to a high of 17, with most reporting they have 1 or 2 inspectors. Further, the percent of time inspectors devote to inspecting funeral homes varies, with inspectors in half of the responding states devoting 70 percent or less of their time to such inspections, while inspectors in the remaining half of the states spend 80 percent or more of their time inspecting funeral homes. The variation in requirements for funeral home inspections among the 6 case study states was similar to the variation reflected in our survey. For example, Florida and Georgia require all funeral homes to be inspected at least once a year, whereas New York has no specific requirement for funeral homes to be inspected, but inspections are conducted on a "recurrent basis."

Since January 1, 2000, a majority of the states have taken enforcement actions against funeral homes, funeral directors, or embalmers for violations of state rules or regulations. Of the 42 states that responded to this survey issue, 40 had taken enforcement actions, ranging from issuing notices of noncompliance, to revoking licenses, and prosecuting violators. It must be noted that a low number of enforcement actions taken by a state may not be indicative of lax enforcement efforts, but rather could be reflective of a general lack of problems involving the death care industry in that state.

Consistent with results obtained through our funeral home survey, 5 of the 6 case study states have taken a range of enforcement actions against funeral homes, funeral directors, or embalmers for violations of state rules or regulations since January 1, 2000. For example, Florida has taken a number of actions, including (1) issuing a notice of noncompliance to a funeral director for failing to properly display casket prices and (2) placing a funeral director on probation, levying a fine against him, and making him pass a state examination on state laws and rules after he did not properly maintain a body so that it would be suitable for viewing.

See appendixes III through IX for more detailed information on the 6 case study states' regulation of funeral homes, funeral directors, and embalmers. To view the survey covering funeral homes, funeral directors, and embalmers and the responding states' answers to the survey questions, go to <http://www.gao.gov/cgi-bin/getrpt?GAO-03-831SP>.

Crematories and Crematory Operators

A majority of states regulate crematories and require crematories to be licensed to operate in their state, but fewer require crematory operators to be licensed. Specifically, as shown in table 2, of the 45 states responding to our survey covering crematories and crematory operators, 36 regulate crematories, and 29 regulate all crematories in the state.⁸ Further, of the 35 states that responded to this issue, 27 require all crematories to be licensed to operate within their state, whereas only 16 of these states require all crematory operators to be licensed. Our work in the 6 case study states exhibits the same variation in licensing requirements and practices for crematories and crematory operators. For example, California requires all crematories and crematory operators to be licensed to operate in the state. In contrast, Hawaii and New York do not license either crematories or crematory operators.

⁸Crematories at state medical schools, not-for-profit crematories, and crematories run by religious groups or municipalities are among the crematories that are exempt from some states' regulations.

Table 2: Summary of Surveyed States' Licensing Requirements for Crematories and Crematory Operators

	Regulates crematories	Requires all crematories to be licensed	Requires all crematory operators to be licensed
Total	36 of 45 responders	27 of 35 responders	16 of 35 responders

Source: Information obtained from answers to GAO's Web based survey of all 50 states.

Similar to funeral homes, most states require inspections of crematories at least annually. Of the 36 states that responded to this issue in our survey, 33 require crematories to be inspected, and most of these states require crematories to be inspected at least once a year. The number of inspectors who conduct those inspections and the percent of their time devoted to inspections of crematories, however, vary from state to state. Among the responding states, a majority reported they have 1 or 2 inspectors who inspect crematories and, in most of the responding states, these inspectors devote 10 percent or less of their time to inspections of crematories. The requirements for crematory inspections across the 6 case study states also vary. For example, California, Florida, Georgia,⁹ and New York require inspections of crematories at least once a year. In contrast, neither Hawaii nor Texas¹⁰ requires inspections of crematories.

Since January 1, 2000, only a minority of the states that regulate crematories have taken enforcement actions against crematories or crematory operators for violations of state rules or regulations. Of the 32 states that responded to this survey question, 13 have taken a variety of enforcement actions for violations, ranging from issuing notices of noncompliance, to revoking licenses and prosecution. Among the 6 case study states, California, Florida, and New York have taken a range of

⁹In May 2002, subsequent to the discovery of decomposed bodies at the Tri-State Crematory in Noble, Georgia, the state amended the definition of the term "crematory" to cover more facilities, including the Tri-State Crematory. Prior to this amendment, crematory was defined as "any place that is owned by a funeral director or funeral establishment where cremation is performed, and which is open to the public other than a hospital, clinic, laboratory, or other facility authorized by the Department of Human Resources for such purposes." Because Tri-State Crematory was not owned by a funeral director or funeral establishment, it was not covered by the former definition of crematory, and thus not subject to regulation.

¹⁰Under a new law, effective September 1, 2003, all licensed crematories will be required to be inspected at least once every 2 years by staff of the Texas Funeral Service Commission. If the Commission finds a violation, the crematory is required to be inspected annually until the Commission determines the crematory is free of violations.

Cemeteries and Cemetery Operators

enforcement actions for violations of state rules or regulations, whereas Georgia, Hawaii, and Texas have not. For example, California placed a facility on probation for failing to properly inter or dispose of cremated remains.

See appendixes III through IX for more detailed information on the 6 case study states' regulation of crematories and crematory operators. To view the survey covering crematories and crematory operators and the responding states' answers to the survey questions, go to <http://www.gao.gov/cgi-bin/getrpt?GAO-03-831SP>.

Most states regulate cemeteries, although not all cemeteries in those states are subject to regulation.¹¹ Specifically, as shown in table 3, of the 44 states that responded to our survey covering cemeteries and cemetery operators, 34 regulate cemeteries, and 27 of these states noted that not all cemeteries are subject to regulation. About half of the states that regulate cemeteries require at least some cemetery operators to be licensed, although the licensing requirements vary across the states. Of the 33 states responding to this issue, 23 said that at least some cemeteries must be licensed, whereas only 16 of these states require at least some cemetery operators to be licensed. Our work in the 6 case study states shows similar results.

Table 3: Summary of Surveyed States' Licensing Requirements for Cemeteries and Cemetery Operators

	Regulates at least some cemeteries	Requires at least some cemeteries to be licensed	Requires at least some cemetery operators to be licensed
Total	34 of 44 responders	23 of 33 responders	16 of 33 responders

Source: Information obtained from answers to GAO's Web based survey of all 50 states.

Cemetery inspection requirements also vary across the states. Of the 33 states that responded to this issue in our survey, 14 require cemeteries to be inspected and, among these states, 6 require inspections of cemeteries at least every 2 years. The number of inspectors who inspect cemeteries and the percent of their time devoted to these inspections also vary across the states. Among the responding states, a majority reported they have 3 or less inspectors who inspect cemeteries and, in most of the

¹¹For example, cemeteries that are operated by municipalities or by religious organizations are exempt from regulation in many states.

responding states, these inspectors devote 50 percent or less of their time to inspections of cemeteries. The requirements for cemetery inspections across the 6 case study states also vary, with 3 states requiring inspections of cemeteries, while the 3 remaining states do not.

A majority of the responding states have taken actions against cemeteries or cemetery operators for violations of state rules or regulations since January 1, 2000. Specifically, of the 33 states responding to this issue, 23 noted they have taken enforcement actions ranging from issuing notices of noncompliance, to revoking licenses, and prosecuting violators. However, among the 6 case study states, each has taken enforcement actions against cemeteries or cemetery operators since January 1, 2000, for violations of state rules or regulations. For example, Hawaii suspended a cemetery authority license because the licensee did not file required audited financial statements, and New York issued a notice of noncompliance to a cemetery because its record keeping was not sufficient to identify who is buried in each grave.

More detailed information on the 6 case study states' regulation of cemeteries and cemetery operators can be found in appendixes III through IX. To view the survey covering cemeteries and cemetery operators and the responding states' answers to the survey questions, go to <http://www.gao.gov/cgi-bin/getrpt?GAO-03-831SP>.

Pre-need Sales of Funeral Plans

Most states regulate pre-need sales of funeral plans.¹² Specifically, table 4 shows that all 42 of the states that responded to this issue in our survey stated that they regulate sales of pre-need funeral plans, with 34 of these states regulating all sales of pre-need funeral plans.¹³ A majority of the states that responded to this survey also require at least some sellers of pre-need funeral plans—to include the companies or the actual sales agents—to be licensed by the state. Of the 38 states that responded to this issue, 35 require at least some sellers of pre-need funeral plans to be licensed to operate within their state, and 31 of the 38 states responding require at least some sellers to register with the state. Similarly, regulation of pre-need funeral plan sales in the 6 case study states also varies. For example, Florida requires companies to obtain a “certificate of authority”

¹²For purposes of our survey, we focused on regulation of pre-need funeral plans that are funded by trusts.

¹³Among the pre-need funeral plan sales that are exempt from regulation across the other states include those that are funded by insurance.

in order to sell pre-need funeral plans in the state. In contrast, New York only permits licensed funeral directors to sell pre-need funeral plans, which must be funded through trusts.

Table 4: Summary of Surveyed States' Regulation and Registration or Licensing Requirements Regarding Sales of Pre-need Funeral Plans

	Regulates pre-need funeral plan sales	Regulates all pre-need funeral plan sales	Requires at least some sellers of pre-need funeral plans to be licensed by the state	Requires at least some sellers of pre-need funeral plans to register with the state
Total	42 of 42 responders	34 of 41 responders	35 of 38 responders	31 of 38 responders

Source: Information obtained from answers to GAO's Web based survey of all 50 states.

A majority of states require a portion of the proceeds from sales of pre-need funeral plans to be placed in trust, but trusting requirements vary across the states. Specifically, results from our survey show that of the 40 states that responded to this issue, 35 require a percentage of pre-need sales revenues to be placed in trust. The trusting requirements vary, though, depending on the category of funeral or cemetery goods or services purchased. Further, the refunds that purchasers of pre-need funeral plans are entitled to if they cancel their pre-need contracts also vary across the states. Some states allow consumers who cancel their pre-need sales contracts to recoup the amount of principal they paid plus any interest that has accrued, while in other states, consumers are entitled only to receive a majority of the principal they have paid. Regulation of pre-need funeral plan sales in the 6 case study states was consistent with the results obtained through our survey. Further, while each of the 6 states allow consumers to recoup the majority of the principal they paid when they cancel pre-need funeral plans prior to need, requirements vary on the amount, if any, of accrued interest to which they are due.

A majority of the states that regulate pre-need funeral plan sales have taken enforcement actions against sellers of such plans for violations of state rules or regulations since January 1, 2000. Specifically, of the 36 states responding to this issue in our survey, 25 stated that they have taken such actions. Among the 6 case study states, all have taken at least one enforcement action against sellers of pre-need funeral plans for violations of state rules or regulations since January 1, 2000. For example, California revoked a license of a seller of pre-need funeral plans after the state determined the seller, among other things (1) lied about his criminal history, (2) fraudulently altered test results to obtain his license, and

(3) failed to place pre-need sales funds in trust. Texas issued a notice of noncompliance to a cemetery for failure to properly make timely deposits to the trust fund as required.

More detailed information on the 6 case study states' regulation of pre-need funeral plan sales can be found in appendixes III through IX. To view the survey covering pre-need sales of funeral plans and the responding states' answers to the survey questions, go to <http://www.gao.gov/cgi-bin/getrpt?GAO-03-831SP>.

Third Party Sales of Funeral Goods

Third party sales of funeral goods are regulated less than any other segment of the death care industry. As can be seen in table 5, of the 45 states that responded to our survey covering third party sales of funeral goods, only 16 regulate third party sales of funeral goods, and only 10 of those states responded that they regulate all third party sales of funeral goods.¹⁴ Even fewer states require third party sellers of funeral goods to be licensed by or registered with the state. Only 9 of the 13 responding states require at least some third party sellers to be licensed, and 9 of the 14 responding states require third party sellers of funeral goods to register with the state. Regulation of third party sales in the 6 case study states also varies. For example, California, Hawaii, New York, and Texas do not regulate or license third party sales of funeral goods. In contrast, Florida only regulates monument dealers.

Table 5: Summary of Surveyed States' Regulation and Licensing Requirements for Third Party Sales of Funeral Goods

	Regulates third party sales of funeral goods	Regulates all third party sales of funeral goods	Requires at least some third party sellers of funeral goods to be licensed by the state	Requires third party sellers of funeral goods to register with the state
Total	16 of 45 responders	10 of 15 responders	9 of 13 responders	9 of 14 responders

Source: Information obtained from answers to GAO's Web based survey of all 50 states.

¹⁴Among the types of third party sales of funeral goods that are exempt from regulation across the states that do not regulate all third party sales are Internet sales, sales to consumers who need the goods immediately (referred to as "at-need"), and sales of funeral goods when the consumer takes possession of the merchandise within a fixed period of time.

Few states responded that they have taken enforcement actions against third party sellers of funeral goods for violations of state rules or regulations since January 1, 2000. Of the 16 responding states that regulate third party sales of funeral goods, 14 addressed this issue and, of these, 6 stated they have taken actions against third party sellers. Among the 6 case study states, only Georgia has taken any enforcement actions against third party sellers of funeral goods since January 1, 2000, and this action was to deny the registration of a third party seller.

More detailed information on the 6 case study states' regulation of third party sellers of funeral goods can be found in appendixes III through IX. To view our survey covering third party sales of funeral goods and the responding states' answers to the survey questions, go to <http://www.gao.gov/cgi-bin/getrpt?GAO-03-831SP>.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the Chairman of the Federal Trade Commission. We will also make copies available to others on request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staffs have any questions regarding this report, please contact John Mortin or me at (202) 512-8777. Key contributors to this report are listed in appendix XI.

A handwritten signature in black ink that reads "Laurie Ekstrand". The signature is written in a cursive style with a long, sweeping tail on the letter "d".

Laurie E. Ekstrand
Director, Homeland Security & Justice

Appendix I: Objectives, Scope, and Methodology

Objectives

Our overall objectives were to report on (1) states' roles in and the structures used by states for regulating the death care industry and (2) the mechanisms used by states for enforcing their regulations pertaining to the death care industry.

Scope and Methodology

To obtain information on the various ways states regulate the death care industry, we used a two-pronged approach. First, we determined the proper points of contacts within each state for regulating the various segments of the death care industry and designed and implemented five Web based surveys to gather information on the regulatory structure and enforcement mechanisms that are in place in the states to regulate each of the five segments of the death care industry we reviewed—funeral homes, crematories, cemeteries, pre-need sales of funeral plans,¹ and third party sales of funeral goods. In some states, one person was designated as their state's point of contact for responding to all five surveys. In other states, there were multiple points of contact for responding to the five separate surveys.

To ensure we obtained the highest response rate possible, we made the Web based surveys available to the designated state contacts from December 2, 2002, through March 7, 2003, and sent reminders via E-mails and telephone calls to the state contacts. Over this 3-month period, we obtained responses from 48 states covering regulation of funeral homes, 45 states covering regulation of crematories, 44 states covering regulation of cemeteries, 42 states covering regulation of sales of pre-need funeral plans, and 45 states covering regulation of third party sales of funeral goods. While the overall response rate was relatively high, not all states that completed the surveys provided responses to all the appropriate questions. Further, we did not independently verify the accuracy or completeness of the responses provided from the Web based surveys.

The second part of our approach to gathering data on state regulation of the death care industry was to visit the 6 states of California, Florida, Georgia, Hawaii, New York, and Texas. We conducted work in California, Florida, Georgia, and Hawaii because of media reports of desecration of graves and human remains and other types of mismanagement at cemeteries and crematories in those states. New York and Texas were

¹For purposes of our survey, we focused on regulation of pre-need funeral plans that are funded by trusts not those funded through insurance.

selected because they represent states that have comparatively large populations.² Within these 6 states, we conducted interviews with the relevant regulatory officials to collect more in-depth information and documentation on (1) relevant state rules and regulations; (2) the structure in place to regulate the death care industry; (3) enforcement mechanisms and capabilities that are in place to enforce the relevant state rules and regulations; and (4) the results of enforcement efforts—such as inspections of facilities, and enforcement actions taken. We also researched and reviewed relevant portions of these states’ laws and regulations concerning the death care industry. Table 6 provides a listing of the state regulatory, death care industry, and consumer associations we met in the 6 states visited. The results from our work in these states are not generalizable across all states.

²California, Florida, New York, and Texas, were also included in an earlier report on the death care industry, U.S. General Accounting Office, *Funeral-Related Industries: Complaints and State Laws Vary, and FTC Could Better Manage the Funeral Rule*, [GAO/GGD-99-156](#) (Washington, D.C.: September 1999).

Appendix I: Objectives, Scope, and Methodology

Table 6: Listing of State Regulatory Agencies, Death Care Industry Associations, and Consumer Associations We Met with in the 6 States Visited

State	State regulatory agencies	Death care industry associations	Consumer associations
California	Department of Consumer Affairs, Cemetery and Funeral Bureau	California Funeral Directors Association Interment Association of California	Funeral Consumers Alliance of California
Florida	Department of Business and Professional Regulation, Board of Funeral Directors and Embalmers Department of Banking and Finance (Now called the Department of Financial Services), Bureau of Funeral and Cemetery Services	Florida Funeral Directors Association Association of Independent Funeral Directors of Florida	Florida Funeral and Cemetery Consumer Advocacy
Georgia	Office of the Secretary of State, Securities and Business Regulation Division Professional Licensing Boards Division	Georgia Funeral Directors Association	AARP, Georgia State Office
Hawaii ^a	Department of Health, Sanitation Branch Department of Health, Clean Air Branch Department of Commerce and Consumer Affairs, Cemetery and Funeral Trust Program	Hawaii Funeral Directors Association Hawaii Allied Memorial Council	Memorial Society of Hawaii
New York	Department of State, Division of Cemeteries Department of Health, Bureau of Funeral Directing	New York State Funeral Directors Association New York State Association of Cemeteries	Memorial Society of the Hudson-Mohawk Region
Texas	Texas Funeral Service Commission Department of Banking, Special Audits Division	Texas Funeral Directors Association Texas Cemeteries Association	Consumers Union, Southwest Region Funeral Consumers Alliance of Texas

Source: GAO.

^aIn Hawaii, we also attended a meeting of the “Hawaii Task Force to Examine State Regulators of Death Care Providers.”

Our work focused primarily on the states since most regulatory responsibilities regarding the death care industry are handled at the state level. We did, however, communicate with officials from the (1) Federal Trade Commission, (2) Department of Veterans Affairs’ National Cemetery Administration, (3) Environmental Protection Agency, and (4) Occupational Safety & Health Administration to obtain information and documentation on these agencies’ specific roles and responsibilities

in regulating the death care industry and their interaction with state agencies that are the primary regulators of the death care industry.

In order to obtain broader perspectives regarding the death care industry—including changing trends and information available to assist consumers in making informed choices regarding death care transactions—we spoke with officials from the North American Cemetery Regulators Association and with representatives from consumer associations and the death care industry. Specifically, we met with and collected relevant documentation from consumer association officials representing AARP, the Funeral Consumers Alliance, and consumer associations having an interest in death care industry issues within the 6 states we visited (see table 6). For the death care industry, we met with and collected relevant documentation from officials representing the Cremation Association of North American, the International Cemetery and Funeral Association, the National Funeral Directors Association, as well as local industry associations within the 6 states we visited (see table 6).

Appendix II: Resources Available to Assist Consumers in Death Care Transactions

There are a variety of resources available to consumers for gathering information regarding death care transactions. Through the Federal Trade Commission (FTC), various death care industry associations, and consumer associations, consumers are able to find brochures and planning guides. While the information contained in this appendix is not comprehensive, it highlights some sources of information available to consumers for making informed choices regarding death care transactions.

Resources Available from FTC

FTC provides a printed publication entitled *Funerals: A Consumers Guide*, which is also available on-line at (<http://www.ftc.gov/bcp/online/pubs/services/funeral.html>) that informs consumers on how the Funeral Rule protects them and provides a glossary of terms, advice for planning funerals, and a worksheet for consumers to compare costs. FTC's Web site provides links to consumer advocacy and industry trade associations, provides a link to electronically file a complaint, and posts a toll-free telephone number to its Consumer Response Center, 1-877-FTC-HELP (382-4357).

Resources Available from Death Care Industry Sources

Representatives from the death care industry associations with whom we spoke (both national and local) all provide information on their Internet sites and printed documents for consumers.

- **National Funeral Directors Association:** The professional association for funeral directors and embalmers, has a link entitled "consumer resources" on its Web site (www.nfda.org) that consumers can use to find information about their state funeral directors associations, associations focusing on grief, and funeral planning. Some state funeral directors organizations also provide printed and on-line information related to such topics as alternatives to traditional funerals, pre-need funeral plans, and the role of the funeral director.
- **Cremation Association of North America:** A professional association promoting the practice of cremation that also provides educational brochures on cremation and cremation-related articles for consumers on its Web site (<http://www.cremationassociation.org>). For example, the Cremation Association of North America's Web site offers a brochure answering frequently asked questions, such as how cremations are performed and whether embalming is necessary. Articles available on the Web site cover, for example, the history of cremation and trends contributing to the increase in cremation rates.

- **International Cemetery and Funeral Association:** Like other industry associations we interviewed, this association, a trade association for cemeteries, crematories, monument sellers, and funeral homes, provides information for consumers via its Web site (<http://www.icfa.org>). The International Cemetery and Funeral Association provides a Consumer Resource Guide that answers questions related to dealing with grief, burial, cremation, pre-need funeral plans, and the Cemetery Consumer Service Council—a voluntary service that mediates complaints between consumers and participating cemeteries at no cost to consumers.

Resources Available from Consumer Associations

- **AARP:** An organization for people over 50. Its publications and Web site (www.aarp.org) cover a variety of topics of interest to seniors and its Web site presents information regarding death care services.
- **Funeral Consumers Alliance:** A consumer advocacy association that provides death care industry-related information through its Web site (<http://www.funerals.org>). The Web site features such information as a list of state and local member organizations, how to file a funeral or cemetery complaint, and consumer alerts regarding various aspects of the death care industry. State affiliate organizations, also known as memorial societies, also provide brochures and Web information, though these resources are generally state or county focused.

Consumer Protection Information Offered by States

Results from our surveys show that most states provide some information or protections to consumers regarding their transactions involving the death care industry. Table 7 summarizes the range of responses we received from the states.

**Appendix II: Resources Available to Assist
Consumers in Death Care Transactions**

Table 7: Summary of Consumer Information and Protections Offered by the States

State	Requires death care businesses to provide general price lists	Provides one or more state-sponsored complaint hot lines	Provides information through state-sponsored Web page	Conducts educational outreach programs	Provides information on licensed facilities in good standing	Holds public hearings	Conducts investigations of legitimate consumer complaints
Alabama			X		X	X	X
Alaska					X		X
Arizona	X		X		X		X
Arkansas	X	X	X		X	X	X
California	X	X	X	X	X	X	X
Colorado	X		X		X		X
Connecticut	X	X	X		X		X
Delaware		X	X		X		X
Florida	X	X	X	X	X		X
Georgia	X		X		X	X	X
Hawaii	X	X	X		X		X
Idaho	X	X	X				X
Illinois	X	X	X	X	X	X	X
Indiana	a	a	a	a	a	a	a
Iowa	X	X		X	X		X
Kansas	X	X	X	X	X		X
Kentucky		X	X	X	X		X
Louisiana	X	X	X		X	X	X
Maine	X		X		X	X	X
Maryland	X	X	X	X	X	X	X
Massachusetts	X		X		X		X
Michigan			X	X	X		X
Minnesota	X		X		X		X
Mississippi		X	X	X	X		X
Missouri		X	X	X	X	X	X
Montana			X		X		X
Nebraska	X	X	X		X		X
Nevada	X	X	X		X		X
New Hampshire	b	b	b	b	b	b	b
New Jersey	X	X	X	X	X		X
New Mexico	X	X	X		X	X	X
New York	X		X	X	X		X

**Appendix II: Resources Available to Assist
Consumers in Death Care Transactions**

State	Requires death care businesses to provide general price lists	Provides one or more state-sponsored complaint hot lines	Provides information through state-sponsored Web page	Conducts educational outreach programs	Provides information on licensed facilities in good standing	Holds public hearings	Conducts investigations of legitimate consumer complaints
North Carolina		X	X		X	X	X
North Dakota	X				X	X	X
Ohio			X		X	X	X
Oklahoma			X	X	X	X	X
Oregon			X		X		X
Pennsylvania		X	X		X	X	X
Rhode Island			X		X		X
South Carolina	X		X		X		X
South Dakota	X	X	X		X	X	X
Tennessee							X
Texas	X	X	X	X	X	X	X
Utah	X						X
Vermont	X	X	X		X		X
Virginia	X	X	X	X	X	X	X
Washington			X	X	X		X
West Virginia	X	X	X	X	X	X	X
Wisconsin	X		X		X		X
Wyoming	X	X			X		X
Totals	32	27	42	17	45	19	48

Source: Information obtained from states' answers to GAO's Web based surveys of all 50 states.

^aState did not provide responses to any of the five Web based surveys.

^bState did not provide responses to questions regarding consumer protections.

Summary of Results from 6 States Visited

The 6 states we visited all provide consumers with certain information and protections so that they can make informed choices about death care transactions. A description of the information and protections available to consumers in the 6 states we visited is summarized below.

- California:** Requires that all licensed death care facilities, with the exception of cemeteries, place the Cemetery and Funeral Bureau's name, address, and telephone number on all contracts and provide consumers with a general price list. Additionally, the Cemetery and Funeral Bureau provides a consumer informational guide entitled *Consumer Guide to Funeral and Cemetery Purchases* both in print and on its Web site (<http://www.cfb.ca.gov>) and requires all funeral homes and licensed

cemeteries to display the guide for consumers who inquire about funeral or cemetery services and give the guide to consumers before drafting a contract. California also has a state sponsored Web page that (1) lists some actions taken against licensees through posted press releases, (2) provides a complaint hot line number to the Consumer Information Center, (3) provides an on-line complaint form, and (4) has a search program that allows consumers to research whether firms are in good standing.

- **Florida:** Provides a state sponsored Web page (<http://www.myfloridalicense.com>) where consumers can obtain information on firms in good standing. The Web page also provides a hot line number for consumers to contact a customer service agent, as well as an on-line complaint form. The Department of Financial Services requires its toll-free hot line number to be placed on the signature page of all contracts and maintains a Pre-need Funeral Contract Consumer Protection Trust Fund for consumers who are defrauded by companies that sell pre-need funeral plans.
- **Georgia:** Provides on-line information to consumers through a state sponsored Web page regarding funeral homes and funeral directors that are in good standing with the state. Information regarding cemeteries, pre-need dealers and salespersons, and third party sellers of funeral goods (merchandise dealers) can be obtained by contacting the Securities and Business Regulation Division. The Division also provides general consumer information on the Web page. In addition, Georgia holds public hearings to address consumer concerns or complaints and conducts investigations of legitimate consumer complaints. Further, Georgia requires that all cemeteries and businesses that sell pre-need funeral merchandise and services provide general price lists to consumers.
- **Hawaii:** Provides a state sponsored Web page through the Department of Commerce and Consumer Affairs (<http://www.ehawaii.gov.org>) where consumers can obtain information about whether a cemetery or pre-need licensee is in good standing, verify licensure, and obtain information on complaints filed against licensees. The Department of Commerce and Consumer Affairs also has a telephone number where consumers can call to verify that a business is licensed and to request audited financial statements and actuarial reports on trust funds. The Department of Health does not have consumer protections that relate to death care transactions.
- **New York:** Provides on-line information to consumers through a state sponsored Web page that provides information on licensed facilities in good standing with the state. New York also conducts educational

outreach programs to seniors and others. For cemeteries, New York requires that a notice be conspicuously posted on or adjacent to the cemetery that is in English and includes information such as that the cemetery is regulated by the New York State Cemetery Board and lists the telephone number of the nearest office of the Division of Cemeteries. In addition, cemeteries are required by law to conspicuously post their rules, regulations, charges, and prices of their lots in each of their offices.

- **Texas:** Requires that all funeral-related businesses provide customers with a general price list. Additionally, funeral homes are required to provide a brochure, *Facts About Funerals*, to all customers. Texas requires all cemeteries and pre-need companies to provide general price lists. Texas maintains complaint hot lines and Web pages and requires its regulated entities to include this information on sales agreements and price lists. Texas provides information on firms and salespersons in good standing and holds public hearings to resolve controversial issues when warranted.

Appendix III: California's Regulation of the Death Care Industry

Regulatory Structure

- In California, the Cemetery and Funeral Bureau within the California Department of Consumer Affairs regulates funeral homes, funeral directors, embalmers, cemeteries, cemetery managers (operators), crematories, and crematory managers (operators). The Bureau also regulates sales of pre-need funeral plans, but only those that are sold by funeral homes that place the sales revenue in trust. California does not regulate third party sales of funeral goods.
- Staff within the Cemetery and Funeral Bureau within the California Department of Consumer Affairs focus solely on regulation of the death care industry.

Enforcement Mechanisms

Funeral Homes, Funeral Directors, and Embalmers

- Requires all funeral homes (also known as “funeral establishments” in California), funeral directors, and embalmers to hold a license and apprentice embalmers to hold a registration certificate to operate in the state.
- Requires prospective funeral home owners, funeral directors, embalmers, and apprentice embalmers to pass a criminal background check. In addition to the criminal background checks, prospective funeral directors, embalmers, and apprentice embalmers must also be 18 years of age or older and pay the appropriate fees. Funeral directors and embalmers must pass a state examination. Funeral directors are also required to have an Associate of Arts or Science degree. To receive an embalmers license, California also requires a 1-year course in an embalming school and a 2-year apprenticeship with an experienced embalmer in a California licensed funeral establishment, during which time the apprentice embalmer must embalm or assist in embalming at least 100 cases.
- Licenses for funeral homes, funeral directors, and embalmers are to be renewed annually.
- Each of California's 936 funeral homes is to be inspected every 24 to 30 months. California has four inspectors that spend 100 percent of their time conducting such inspections and investigating consumer complaints. During inspections of funeral homes, inspectors use a prepared checklist and look to ensure, among other things, that (1) arrangement counselors have the required training; (2) the facility, the funeral directors, and embalmers are properly licensed and that the licenses are conspicuously

displayed; (3) there is proper maintenance of the preparation room and embalming equipment; (4) storage facilities for human remains are properly maintained; (5) price lists, contracts, and disclosures meet legal requirements; and (6) case files are properly completed.

- Since January 1, 2000, California has taken a range of enforcement actions against funeral homes and funeral directors or embalmers for violations of state rules or regulations. The actions taken include issuing notices of noncompliance, assessing investigative costs, levying monetary fines, placing violators on probation, asking for the voluntary relinquishment of a license, suspending a license, revoking licenses, and criminally prosecuting a violator.

Crematories and Crematory Operators

- Requires crematories to hold a license to operate in the state. Effective July 1, 2003, crematory managers (operators) are required to be licensed to operate in California.
- Requires prospective crematory managers (operators) to be at least 18 years of age, pass a criminal background check, be a high school graduate or have a general equivalency diploma, and pass the state crematory manager examination.
- Licenses for crematories and crematory managers (operators) are to be renewed annually.
- Each of California's 176 crematories is to be inspected annually. The state has two inspectors that spend 100 percent of their time inspecting crematories and cemeteries and as of July 1, 2003, added three more inspectors. During inspections of crematories, inspectors use a prepared checklist and look to ensure, among other things, that the facility is properly licensed and has a licensed crematory manager; meets refrigeration standards; provides written General Price Lists; there is a system for properly identifying remains; the crematory maintains employee training records, and price lists; contracts and disclosures meet legal requirements; case files, disposition permits, and cremation logs are properly completed; and cremated remains are not commingled.
- Since January 1, 2000, California has taken a range of enforcement actions against crematories or crematory operators for violations of state rules or regulations. The actions taken include issuing notices of noncompliance, assessing investigative costs, levying monetary fines, placing a violator on probation, asking for the voluntary relinquishment of licenses, revoking licenses, and criminally prosecuting a violator.

Cemeteries and Cemetery Operators

- Requires some cemeteries to be licensed to operate in the state, but private or fraternal cemeteries of less than 10 acres that were formed before 1939; and religious and public cemeteries are not subject to regulation. Cemetery brokers (supervisors of cemetery sales) and cemetery salespersons (persons selling cemetery goods and services, cemetery property, and interment space) are to be licensed to operate in the state. As of July 1, 2003, California began requiring cemetery managers (operators) to be licensed to operate in the state.
- Requires prospective cemetery managers (operators) to be at least 18 years of age, pass a criminal background check, be a high school graduate or have a general equivalency diploma, pass a state examination, and have 2 years of cemetery experience.
- Licenses for cemeteries are to be renewed annually. Licenses for cemetery managers (operators) also have an annual renewal requirement.
- Effective July 1, 2003, the state began requiring each of its 190 licensed cemeteries to be subject to annual, unannounced inspections. The state has five inspectors responsible for inspecting cemeteries and crematories. These inspectors spend 100 percent of their time inspecting cemeteries and investigating consumer complaints involving cemeteries and crematories. During inspections of cemeteries, inspectors use a prepared checklist and look to ensure that, among other things, the cemetery is properly licensed and has a licensed cemetery manager; maintains an appropriate record system, price lists, contracts, and that disclosures meet legal requirements; case files, disposition permits and interment records are properly completed; accurate maps of clearly marked sections and plots are maintained; an appropriate amount of dirt covers vaults and caskets; and sales of cemetery goods, services, and property meet legal requirements.
- Since January 1, 2000, California has taken a range of enforcement actions against cemeteries or cemetery operators for violations of state rules or regulations. The actions taken include issuing notices of noncompliance, assessing investigative costs, levying monetary fines, placing a violator on probation, asking for the voluntary relinquishment of licenses, revoking licenses, and criminally prosecuting a violator.¹

¹In its responses to our surveys, California listed the same answers for the actions taken against cemeteries or cemetery operators as they did for actions taken against crematories and crematory operators.

Pre-need Sales of Funeral Plans

- Regulates only those pre-need funeral plans sold through funeral homes in which the proceeds are placed in trust. The state does not license companies who sell pre-need funeral plans or their sales staff. The state has four auditors whose responsibilities include reviewing pre-need contracts for proper language and ensuring the soundness of funds placed in trust.
- Sellers of pre-need funeral plans are required to place into trust 100 percent of the principal paid for pre-need funeral and cemetery goods and services. However, sellers of pre-need funeral plans are permitted to take up to 4 percent of the sales revenue out of interest earned as an administrative fee.
- If a purchaser cancels the pre-need contract, the seller is required to refund 100 percent of the principal invested and cannot take more than 10 percent of the interest that has accrued as a revocation fee.
- Since January 1, 2000, California has taken a range of enforcement actions against sellers of pre-need funeral plans for violations of state rules or regulations. The actions taken include suspending a license and prosecuting a violator.

Third Party Sales of Funeral Goods

- California does not license or register third party sellers of funeral goods, but California's general business law requires price disclosures, in the form of a General Price List, individual price tags, and itemized contracts of casket retailers.
- Since January 1, 2000, California has taken no enforcement actions against third party sellers of funeral goods.

Appendix IV: Florida's Regulation of the Death Care Industry

Regulatory Structure

- In Florida, two entities regulate the death care industry. The Board of Funeral Directors and Embalmers within the Department of Business and Professional Regulation regulates funeral homes, funeral directors, embalmers, crematories, direct disposers, direct disposer establishments, centralized embalming facilities, refrigeration facilities, and removal services. In addition, the Board of Funeral and Cemetery Services within the Department of Financial Services regulates cemeteries and sellers of pre-need funeral plans. Florida does not license third party sellers of funeral goods, but registers third party sellers of monuments.
- Staff who work directly for the Board of Funeral Directors and Embalmers within the Department of Business and Professional Regulation, also work with other professions. Staff who work for the Board of Funeral and Cemetery Services within the Department of Financial Services, focus solely on the death care industry. Inspectors in the Department of Business and Professional Regulation, however, are responsible for inspecting businesses other than just death care-related businesses. Field examiners within the Department of Financial Services are only responsible for inspections of cemeteries and financial examinations of cemeteries and pre-need sales of funeral goods.

Enforcement Mechanisms

Funeral Homes, Funeral Directors, and Embalmers

- Requires all funeral homes (also known as “funeral establishments” in Florida), funeral directors, and embalmers to hold a license to operate in the state.
- Prospective funeral directors and embalmers are required to, among other things, (1) pay an application and examination fee to the state, (2) be at least 18 years of age, (3) complete a 1-year internship with a licensed funeral director or embalmer, and (4) pass a state and national examination. In addition, prospective funeral directors are required to have an associates degree in mortuary science, and prospective embalmers are to have completed a course in mortuary science.
- Licenses for funeral homes, funeral directors, and embalmers are to be renewed every 2 years.
- Each of Florida's 895 funeral homes is to be inspected annually. If violations are found, however, the funeral home has 30 days to correct the deficiencies and they can be re-inspected. Further, there are additional

inspections if the funeral home is part of an on-going investigation. The state has 17 inspectors, divided among several geographic regions, that spend approximately 8 percent of their time inspecting funeral homes and crematories. They are also responsible for inspecting other types of funeral-related facilities, such as removal services, refrigeration facilities, centralized embalming facilities, and direct disposal establishments, in addition to barber shops, cosmetologists, and veterinary clinics. During inspections of funeral homes, inspectors use a prepared checklist to look for such things as whether the facility, the funeral directors, and embalmers have current licenses and that the licenses are properly displayed; there is adequate ventilation, equipment, and cleanliness in the embalming room(s); itemized price lists have the funeral home's name, address, and telephone number; and written agreements for services have proper disclosure statements.

- Since January 1, 2000, Florida has taken a range of enforcement actions against funeral homes, funeral directors, or embalmers for violations of state rules or regulations. The actions taken include issuing notices of noncompliance, sending letters of reprimand, assessing investigative costs, levying monetary fines, placing violators on probation, asking for the voluntary relinquishment of licenses, suspending licenses, and revoking licenses.

Crematories and Crematory Operators

- Requires crematories to hold a license to operate in the state. While Florida does not license crematory operators, they do require a designated licensed funeral director or direct disposer to be in charge of each crematory.
- Crematory licenses are to be renewed every 2 years.
- Each of Florida's 123 crematories is to be inspected annually, but may be done more frequently if deficiencies are found or if there is an on-going investigation. The same 17 inspectors who inspect funeral homes in Florida also conduct inspections of crematories. In conjunction with their inspections of funeral homes, other funeral-related facilities, barbershops, cosmetologists, and veterinary clinics, these inspectors spend an estimated 8 percent of their time inspecting crematories. During inspections of crematories, among the items inspectors look at include ensuring that the name of the facility and the funeral director in charge is posted at the public entrance, a system exists for properly identifying human remains, and that bodies are properly placed in the incinerator.
- Since January 1, 2000, Florida has issued six notices of noncompliance to crematories or crematory operators for violations of state rules or

regulations, though these are not considered by Florida to be disciplinary actions.

Cemeteries and Cemetery Operators

- Requires some cemeteries to be licensed to operate in the state, but cemeteries such as those operated by families, or by county, municipal, religious, or fraternal organizations are exempt from regulation. Florida does not require cemetery operators to be licensed.
- Cemetery licenses are to be renewed annually.
- Each of Florida's 173 licensed cemeteries is to be inspected annually with a financial examination every 3 years. If a problem is discovered during an inspection, such inspections might occur more frequently. The state has 11 field examiners that spend 100 percent of their time inspecting cemeteries and conducting financial examinations. The inspectors use a prepared checklist for these inspections to ensure, among other things, that proper licenses are conspicuously displayed, price lists are available, and cemetery grounds and roads are maintained. Financial examiners look for such things as verification of burial records, reasonable maintenance of burial grounds, and that disclosures are given to consumers.
- Since January 1, 2000, Florida has taken a range of enforcement actions against cemeteries or cemetery operators for violations of state rules or regulations. The actions taken include issuing notices of noncompliance, sending letters of reprimand, levying monetary fines, asking for the voluntary relinquishment of a license, revoking licenses, and prosecuting violators.

Pre-need Sales of Funeral Plans

- Companies who wish to sell pre-need funeral plans are required to obtain a "certificate of authority" that authorizes the company to sell pre-need funeral plans in Florida. These certificates of authority are renewed annually and, with each renewal, licensees must submit a financial statement. Separate from its licensing requirements, Florida requires companies that sell pre-need funeral plans to contribute \$1.00¹ to the Pre-Need Funeral Contract Consumer Protection Trust Fund to ensure that pre-need funds are available to pay for consumers' funerals in the event that sellers of pre-need funeral plans go out of business or otherwise cannot meet their contractual obligations to consumers. The state does not require the sales agents for these companies to be licensed. Rather,

¹Companies that secure pre-need contracts with surety bonds or letters of credit pay \$5.00 per contract.

sales agents who are not licensed funeral directors are required to register with the state. Sales agents are required to renew their registration every 2 years. The state has 11 field examiners whose responsibilities include, in addition to inspecting and examining cemeteries, examining pre-need licensees at least once every 3 years to ensure, among other things, that (1) the pre-need contracts meet state requirements, (2) sales agents are properly registered, and (3) the licensee supported withdrawals from its trust fund.

- The state has different trusting requirements for purchases of pre-need funeral and cemetery goods than it does for purchases of pre-need funeral and cemetery services. Sellers of pre-need funeral and cemetery goods are required to place into trust 110 percent of the wholesale cost or 30 percent of the retail price, whichever amount is greater for each good sold. Pre-need sellers of funeral or cemetery services are required to place into trust a minimum of 70 percent of the total principal.
- Purchasers are allowed to cancel pre-need contracts at any time. If a purchaser cancels the pre-need contract within 30 days, the seller is required to refund 100 percent of the principal invested for unused goods and services, but is permitted to retain all of the interest accrued. If the purchaser cancels the pre-need contract more than 30 days after purchase, the seller is required to refund 100 percent of the principal invested for unused services, but can retain any interest that may have accrued. Sellers, however, are required to deliver goods as stated in the pre-need contract or make arrangements with another seller to deliver the purchased goods.
- Since January 1, 2000, Florida has taken a range of enforcement actions against sellers of pre-need funeral plans for violations of state rules or regulations. The actions taken include issuing notices of noncompliance, sending letters of reprimand, assessing investigative costs, levying monetary fines, revoking licenses, and prosecuting violators.

Third Party Sales of Funeral Goods

- Florida does not license third party sellers of funeral goods, but does require monument dealers to register with the state. Monument dealers are required to (1) be located in a physical location with a street address, (2) pay a registration fee, and (3) renew their registration biennially.
- Since January 1, 2000, Florida has taken no enforcement actions against third party sellers of funeral goods for violations of state rules or regulations.

Appendix V: Georgia's Regulation of the Death Care Industry

Regulatory Structure

- In Georgia, regulation of the death care industry is centralized in the Office of the Secretary of State. Within this office, the Securities and Business Regulation Division regulates perpetual care cemeteries, pre-need sales of funeral plans, and third party sales of funeral goods. In addition, the Georgia State Board of Funeral Service, within the Secretary of State's Office, regulates funeral homes, funeral directors, and crematories, and is supported by staff of the State's Professional Licensing Boards Division.
- Staff within the Division responsible for administering and regulating cemeteries, pre-need sales of funeral plans, and third party sales of funeral goods spend half of their time on the administration and regulation of cemeteries, pre-need sales of funeral plans, and third party sales of funeral goods and the other half of their time on regulation of charities. Staff that work for the State Board of Funeral Service spend about 30 percent of their time on death care related issues.

Enforcement Mechanisms

Funeral Homes, Funeral Directors, and Embalmers

- Requires all funeral homes, funeral directors, and embalmers to hold a license to operate in the state.
- Prospective funeral directors and embalmers must pass both a national and state examination, have a degree in mortuary science, and serve an apprenticeship of 3,120 hours over an 18-month period.
- Licenses for funeral homes, funeral directors, and embalmers are to be renewed every 2 years.
- Each of Georgia's 736 licensed funeral homes is to be "regularly" inspected and all are inspected at least once per year. The state has two inspectors that spend 100 percent of their time conducting inspections of funeral homes. During these inspections, the inspectors use a prepared checklist to look for such things as ensuring whether the embalming room has proper equipment, the facility has a range of caskets available with prices visibly posted, and licenses for the funeral home and funeral director(s) are current and conspicuously displayed.
- Since January 1, 2000, Georgia has taken a range of enforcement actions against funeral homes, funeral directors, or embalmers for violations of state rules or regulations. The actions taken include issuing letters of reprimand, levying monetary fines, placing violators on probation, asking

for the voluntary relinquishment of licenses, suspending licenses, and revoking licenses.

Crematories and Crematory Operators

- Requires crematories to hold a license to operate in the state. While Georgia does not license crematory operators per se, they do require a designated licensed funeral director to be in charge of each crematory.
- Crematory licenses are to be renewed every 2 years.
- As of May 2002, each of Georgia's 46 crematories is to be inspected at least once a year.¹ The same two inspectors who conduct inspections of funeral homes in Georgia also conduct inspections of crematories. During inspections of crematories, inspectors use a prepared checklist and look to ensure that, among other things, the equipment is operable, there is sufficient room for memorial services, and that licenses are current and conspicuously displayed.
- Since January 1, 2000, Georgia has not taken any enforcement actions against crematories or crematory operators for violations of state rules or regulations.

Cemeteries and Cemetery Operators

- Requires perpetual care cemeteries to be registered to operate in the state, but exempts governmentally owned cemeteries, fraternal cemeteries, and cemeteries owned and operated by churches, synagogues, or communities, and family burial plots. Cemetery operators are not required to be licensed, but they are required to register with the state each year.
- Cemetery registrations are to be renewed annually.
- While state law does not require annual inspections of Georgia's 206 registered cemeteries, inspections are conducted in response to complaints. The state has three investigative analysts (inspectors) who spend 25 percent of their time inspecting cemeteries. The investigative analysts use a checklist and look at such things as whether price lists,

¹In May 2002, subsequent to the discovery of decomposed bodies at the Tri-State Crematory in Noble, Georgia, the state amended the definition of the term "crematory" to cover more facilities, including the Tri-State Crematory. Prior to this amendment, crematory was defined as "any place that is owned by a funeral director or funeral establishment where cremation is performed, and which is open to the public other than a hospital, clinic, laboratory, or other facility authorized by the Department of Human Resources for such purposes." Because Tri-State Crematory was not owned by a funeral director or funeral establishment, it was not covered by the former definition of crematory, and thus not subject to regulation.

certificates, and sales materials are properly posted, and the general condition of the cemetery. The investigative analysts also review financial statements and documents.

- Since January 1, 2000, Georgia has taken a range of enforcement actions against cemeteries and cemetery operators for violations of state rules or regulations. The actions taken include issuing notices of noncompliance, assessing investigative costs, levying monetary fines, and suspending licenses.

Pre-need Sales of Funeral Plans

- The state does not license companies and their sales agents who sell pre-need funeral plans funded by trusts, but these companies and their sales agents are to annually register with the state.
- Sellers of pre-need funeral and cemetery services are required to place into trust 100 percent of the principal paid. The state has different trusting requirements for sellers of pre-need funeral and cemetery goods. For pre-need funeral goods, sellers are required to place into trust 100 percent of the principal paid, while sellers of cemetery monuments and outer burial containers are required to place into trust 35 percent of the principal paid or 110 percent of the wholesale price.
- If a purchaser cancels the pre-need contract for merchandise and services, the seller is required to refund 100 percent of the principal invested and 100 percent of any interest that has accrued, except that interest is not refunded on monuments and vaults.
- Since January 1, 2000, Georgia has taken enforcement actions against sellers of pre-need funeral plans. These actions include four orders denying registration of pre-need sales agents.

Third Party Sales of Funeral Goods

- Georgia requires certain, but not all, third party sellers of funeral goods to register with the Office of the Secretary of State and these registrations are to be renewed at least once per year.²

²In Georgia, certain third party sellers are exempt, such as those providing interment and disinterment services exclusively at cemeteries exempt from registration.

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- Since January 1, 2000, Georgia has denied the registration of a third party seller of funeral goods.

Appendix VI: Hawaii's Regulation of the Death Care Industry

Regulatory Structure

- In Hawaii, regulation of the death care industry is divided between two state agencies. The Department of Health has responsibility for regulating funeral homes with embalming rooms and embalmers. The Department of Commerce and Consumer Affairs regulates cemeteries and pre-need sales of funeral plans. Hawaii does not license crematories or third party sellers of funeral goods.
- Staff in the Department of Health's Sanitation Branch are responsible for regulating embalmers and funeral homes with embalming rooms, but also regulate food preparation and other businesses. Staff in the Department of Commerce and Consumer Affairs' Division of Professional and Vocational Licensing regulate cemeteries and sales of pre-need funeral plans, but these represent only a portion of the businesses regulated.

Enforcement Mechanisms

Funeral Homes, Funeral Directors, and Embalmers

- Hawaii only requires a license for those funeral homes (also known as "mortuaries" in Hawaii) that perform embalming. Funeral homes that do not perform embalming are not licensed. Embalmers are required to be licensed, but funeral directors who do not embalm are not licensed.
- Embalmers are required to serve a 1-year apprenticeship with a licensed embalmer if they did not graduate from a nationally recognized embalming school, and pass a national and practical examination.
- Licenses for embalmers and for funeral homes that embalm are to be renewed annually.
- Each of the 17 funeral homes in Hawaii that perform embalming is to be inspected annually. If a funeral home does not perform embalming, it is not inspected. The state has 24 inspectors that spend less than 1 percent of their time conducting inspections of embalming rooms within funeral homes. These inspectors spend the majority of their time inspecting food preparation and other types of businesses. Inspectors use a prepared checklist for inspections of funeral homes and they look for such things as proper ventilation, sterilized equipment, and proper disposal of wastewater.
- Since January 1, 2000, Hawaii has taken no actions against funeral homes, funeral directors, or embalmers for violations of state rules or regulations.

Crematories and
Crematory Operators

- Hawaii does not license crematories or crematory operators.
- Hawaii does not require inspections of crematories.
- Since January 1, 2000, Hawaii has taken no actions against crematories or crematory operators for violations of state rules or regulations.

Cemeteries and
Cemetery Operators

- Hawaii requires some cemeteries to be licensed to operate in the state, but cemeteries operated by families, plantations, communities, or churches are exempt from regulation. Hawaii does not require cemetery operators to be licensed.
- Cemetery licenses are to be renewed every 2 years.
- While state law does not require inspections of Hawaii's 14 licensed cemeteries, inspections can be conducted to investigate complaints against cemeteries.
- Since January 1, 2000, Hawaii has taken enforcement actions against cemeteries or cemetery operators for violations of state rules or regulations. These actions include issuing warning letters and levying a monetary fine

Pre-need Sales of
Funeral Plans

- Companies offering pre-need funeral plans are to obtain a "pre-need funeral authority" license to operate, but their sales agents are not required to be licensed or registered by the state. Applicants for pre-need licenses are required to provide such things as, business registration, current financial statements, proof of tax clearances, credit reports, copy of the sales contract to be used, a bond of \$50,000, trust agreement between applicant and trustee, and an application fee. Companies are required to renew their licenses every 2 years. A staff person reviews pre-need contracts and trust agreements with assistance from a deputy attorney general. Licensees are required to submit an audited financial statement and actuarial study on a fiscal or calendar year basis to the Department of Commerce and Consumer Affairs. The state's consultant reviews the financial statements and actuarial studies.
- Sellers of pre-need funeral plans are required to place into trust 70 percent of the principal and can retain up to 30 percent of the principal for recovery of acquisition costs. Purchasers who cancel their pre-need contract are entitled to a refund of 100 percent of the principal they paid, but none of the interest that has accrued.

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- Since January 1, 2000, Hawaii has issued one warning letter to a licensed seller of pre-need funeral plans and prosecuted one seller of pre-need funeral plans for violations of state rules or regulations.

**Third Party Sales of
Funeral Goods**

- Hawaii does not license or register third party sellers of funeral goods
- Since January 1, 2000, Hawaii has taken no actions against third party sellers of funeral goods for violations of state rules or regulations.

Appendix VII: New York’s Regulation of the Death Care Industry

Regulatory Structure

- Regulation of the death care industry is handled by two organizations in New York. The Bureau of Funeral Directing within the Department of Health regulates funeral homes, funeral directors, and embalmers. The Bureau also regulates sales of pre-need funeral plans since only licensed funeral directors can sell pre-need funeral plans. In addition, the Cemetery Board, which is composed of the Secretary of State, the Attorney General, and the Commissioner of Health, regulates cemeteries and crematories. Within the Department of State, the Division of Cemeteries administers both state laws and the Cemetery Board’s rules and regulations. New York State does not regulate third party sales of funeral or cemetery goods.
- Staff responsible for regulating the death care industry in New York work exclusively on death care issues and are not responsible for regulating other types of businesses.

Enforcement Mechanisms

Funeral Homes, Funeral Directors, and Embalmers

- Requires all funeral homes (also called “funeral firms”) to register with the state, whereas funeral directors are required to hold a license to operate in the state and this license also authorizes them to perform embalmings. As such, since the 1960s, New York has had no separate license for embalmers.
- Requires prospective funeral directors to graduate from mortuary school, pass both a national and a state examination, and serve a 1-year residency with a licensed funeral director. In addition, funeral directors are required to have 12 hours of continuing education every 2 years.
- Funeral homes are required to renew their registration every 2 years and funeral directors are also required to renew their registration every 2 years.
- While New York has no specific requirement to inspect its estimated 1,985 funeral homes, the state has two inspectors that spend 20 percent of their time conducting inspections of funeral homes on a “recurrent basis.” These inspectors use a prepared checklist to look for such things as that the embalming room is properly equipped and sanitary, actual retail prices are posted on funeral merchandise offered for sale, and licenses and registrations are current and conspicuously posted.

- Since January 1, 2000, New York has taken a variety of enforcement actions against funeral homes, funeral directors, or embalmers for violations of state rules or regulations. These actions include issuing notices of noncompliance, sending letters of reprimand, levying monetary fines, asking for voluntary relinquishment of licenses, revoking licenses, and prosecuting violators.

Crematories and Crematory Operators

- Does not license crematories or crematory operators. However, the state Cemetery Board must approve every certificate of incorporation of a cemetery corporation, which includes crematories.
- Each of New York's 43 crematories is to be inspected twice a year. The state has the equivalent of 2.5 inspectors available that spend an estimated 10 percent of their time inspecting crematories. (These inspectors also inspect cemeteries.) During inspections of crematories, inspectors use a prepared checklist and look to ensure such things as whether the facility is maintained in a clean, orderly, and sanitary manner; there is a plan for proper identification of human remains; and current charges are properly displayed.
- Since January 1, 2000, New York has issued 5 notices of noncompliance to crematories or crematory operators for violations of state rules or regulations.

Cemeteries and Cemetery Operators

- The state does not require cemeteries or cemetery operators to be licensed, but the Cemetery Board must approve every certificate of incorporation of a cemetery corporation. In addition, all cemeteries are required to be not-for-profit corporations.
- New York's 1,860 regulated cemeteries are inspected about every 6 or 7 years. More frequent inspections occur if complaints are received. The state has the equivalent of 2.5 inspectors who spend 20 percent of their time inspecting cemeteries. The inspectors use a checklist and look at such things as whether rules and regulations are conspicuously displayed, the condition of memorials, evidence of vandalism, and the overall condition of the cemetery.
- Since January 1, 2000, New York has issued 23 notices of noncompliance to cemeteries or cemetery operators for violations of state rules or regulations.

Pre-need Sales of Funeral Plans

- In New York, only licensed and registered funeral directors can sell pre-need funeral plans funded by trusts. As such, there is no separate license

for sellers of pre-need funeral plans. Registrations are to be renewed every 2 years.

- Sellers of pre-need funeral goods and services and pre-need cemetery goods plans are required to place into trust 100 percent of the principal paid. There is no requirement to place into trust proceeds from the pre-need sale of cemetery services.
- If a purchaser cancels the pre-need contract prior to its use, the seller is required to refund 100 percent of the principal paid and 100 percent of any interest that has accrued.
- Since January 1, 2000, New York has taken a number of enforcement actions against sellers of pre-need funeral plans for violations of state rules or regulations. The actions taken include issuing notices of noncompliance, sending letters of reprimand, levying monetary fines, requiring restitution to consumers, revoking licenses, and prosecuting violators.

Third Party Sales of Funeral Goods

- New York does not regulate third party sales of funeral goods.
- Since January 1, 2000, New York has taken no enforcement actions against third party sellers of funeral goods for violations of state rules or regulations.

Appendix VIII: Texas's Regulation of the Death Care Industry

Regulatory Structure

- Regulation of the death care industry is handled by two organizations in Texas. The Texas Funeral Service Commission is responsible for regulating funeral homes, funeral directors and embalmers, and for registering crematories and certain cemeteries. The Department of Banking regulates pre-need sales of funeral plans. The Department of Banking also regulates third party sellers of funeral and cemetery goods if they sell the goods pre-need. If third party sellers sell the goods at-need, they are not regulated.
- Staff in the Texas Funeral Service Commission focus exclusively on regulation of death care industry businesses, whereas staff in the Department of Banking are responsible for regulating financial businesses in addition to pre-need sales of funeral plans. The Department of Banking has staff dedicated exclusively to the regulation of pre-need sales of funeral plans and perpetual care cemeteries.

Enforcement Mechanisms

Funeral Homes, Funeral Directors, and Embalmers

- Requires all funeral homes, funeral directors, and embalmers to hold a license to operate in the state.
- Prospective funeral directors or embalmers must be a graduate of a college of mortuary science, pass both a national and state examination, pass a criminal background check, serve a 1- to 2-year provisional licensing program (internship) period with a licensed funeral home, and pass an oral examination before the Texas Funeral Service Commission board. In addition, funeral directors and embalmers are required to obtain 20 hours of continuing professional education every 2 years.
- Licenses for funeral homes are to be renewed annually, whereas licenses for funeral directors and embalmers are to be renewed every 2 years.
- Each of the estimated 1,300 funeral homes in Texas is to be inspected at least once every 2 years.¹ The state has two inspectors that spend approximately 90 percent of their time inspecting funeral homes. During inspections of funeral homes, these inspectors use a prepared checklist to

¹By law, if a violation is found, the funeral home is required to be inspected annually until the Texas Funeral Service Commission determines the funeral home is free of violations.

look for such things as whether the embalming room has proper supplies and equipment, licenses are current and properly displayed, price lists are available, and adequate numbers of caskets are displayed.

- Since January 1, 2000, Texas has taken a variety of enforcement actions against funeral homes, funeral directors, or embalmers for violations of state rules or regulations. The enforcement actions include issuing notices of noncompliance, sending letters of reprimand, assessing investigative costs, levying monetary fines, placing violators on probation, asking for the voluntary relinquishment of licenses, suspending licenses, revoking licenses, and prosecuting violators.

Crematories and Crematory Operators

- Does not license crematories or crematory operators, but crematories must annually register with the Texas Funeral Service Commission.²
- Does not require crematories to be inspected unless the Texas Funeral Service Commission receives a complaint.³
- Since January 1, 2000, Texas has taken no enforcement actions against crematories or crematory operators for violations of state rules or regulations.

Cemeteries and Cemetery Operators

- The state does not require cemeteries to be licensed, but some cemeteries must annually register with the Texas Funeral Service Commission.⁴ Cemeteries that are exempt from registration requirements include public cemeteries owned by the state, county, or municipality, family, fraternal, and religious cemeteries. Cemetery operators are not required to be licensed.

²HB 587, which was signed into law by the Texas Governor on May 29, 2003, will require crematories to be licensed starting September 1, 2003, and then renewed annually.

³HB 1538, which was signed into law by the Texas Governor on June 20, 2003, will require all licensed crematories to be inspected at least once every 2 years effective September 1, 2003. If the Texas Funeral Service Commission finds a violation, the crematory is required to be inspected annually until the Commission determines the crematory is free of violations.

⁴Effective September 1, 2003, cemeteries in Texas will be required to be licensed by the Texas Funeral Service Commission. These licenses will have to be renewed annually. This licensing requirement, however, does not apply to certain cemeteries—such as cemeteries owned by a municipality or family, or by a fraternal or religious organization.

- Texas does not require inspections of its 232 registered cemeteries unless the Texas Funeral Service Commission receives a complaint.⁵
- Since January 1, 2000, Texas has issued notices of noncompliance to and assessed investigative costs against cemeteries or cemetery operators for violations of state rules or regulations.

Pre-need Sales of Funeral Plans

- Companies who wish to sell pre-need funeral plans are required to obtain a permit from the Department of Banking. These permits are to be renewed at least once each year. The state does not regulate or license the individual sales agents of these companies. Contracts used for pre-need funeral plan sales must be approved in advance by the Department of Banking.
- Sellers of pre-need funeral plans are required to place into trust 90 percent of the principal for funeral goods, funeral services, cemetery goods, and cemetery services. The sellers are permitted to retain 10 percent of the principal.
- For pre-need funeral plan contracts purchased prior to September 1, 2001, or held less than 1 year, if a purchaser cancels the pre-need contract, the seller is required to refund 90 percent of the principal invested, but is permitted to retain all of the interest accrued. For pre-need contracts purchased on or after September 1, 2001, if a purchaser cancels the pre-need contract after 1 year, the seller is required to refund 90 percent of the principal invested and 50 percent of the interest accrued.
- Since January 1, 2000, Texas has taken a variety of enforcement actions against sellers of pre-need funeral plans for violations of state rules or regulations. The actions include issuing notices of noncompliance; assessing investigative costs; conducting follow-up examinations; levying monetary fines; placing violators on probation; suspending permits; revoking permits; and issuing cease, desist, and seizure orders.

Third Party Sales of Funeral Goods

- Texas does not regulate third party sales of funeral goods.

⁵Effective September 1, 2003, cemeteries will be required to be inspected at least once every 2 years. If the Texas Funeral Service Commission finds a violation, the cemetery is required to be inspected annually until the Commission determines the cemetery is free of violations.

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- Since January 1, 2000, Texas has taken no enforcement actions against third party sellers of funeral goods for violations of state rules or regulations.

Appendix IX: Comparison of Regulation of the Death Care Industry across the 6 Case Study States

Table 8: Comparison of Requirements for Funeral Homes across the 6 Case Study States

State	Licensing or registration requirements	Licensing or registration renewals	Inspection requirements	Inspection staff	Percent of time allocated to inspections
California	Funeral homes, funeral directors, and embalmers are required to be licensed.	Licenses for funeral homes, funeral directors, and embalmers are to be renewed annually.	Each of California's 936 funeral homes is to be inspected every 24 to 30 months.	There are 4 inspectors responsible for inspecting California's 936 funeral homes.	The inspectors spend 100% of their time inspecting funeral homes and investigating consumer complaints involving funeral homes.
Florida	Funeral homes, funeral directors, and embalmers are required to be licensed.	Licenses for funeral homes, funeral directors, and embalmers are to be renewed every 2 years.	Each of Florida's 895 funeral homes is to be inspected annually.	There are 17 inspectors who, among other things, are responsible for inspecting Florida's 895 funeral homes and its 123 crematories.	The inspectors spend an estimated 8% of their time on inspections of funeral homes and crematories. They are also responsible for inspecting other funeral-related facilities, such as removal services, direct refrigeration facilities, centralized embalming facilities, and direct disposers in addition to barber shops, veterinary clinics, and cosmetologists.
Georgia	Funeral homes, funeral directors, and embalmers are required to be licensed.	Licenses for funeral homes, funeral directors, and embalmers are to be renewed every 2 years.	Each of Georgia's 736 funeral homes is to be "regularly" inspected and all are inspected at least once a year.	There are 2 inspectors responsible for inspecting Georgia's 736 funeral homes and its 46 crematories	The inspectors spend 100% of their time on inspections of funeral homes and crematories.
Hawaii	Embalmers and funeral homes that perform embalmings are required to be licensed. Funeral directors and funeral homes that do not perform embalmings are not licensed.	Licenses for embalmers and funeral homes that perform embalmings are to be renewed annually.	Each of Hawaii's 17 funeral homes that perform embalmings is to be inspected annually	There are 24 inspectors who, among other things, are responsible for inspecting Hawaii's 17 funeral homes that perform embalmings.	The inspectors spend less than 1% of their time inspecting funeral homes' embalming rooms. They spend most of their time inspecting food establishments.

**Appendix IX: Comparison of Regulation of the
Death Care Industry across the 6 Case Study
States**

State	Licensing or registration requirements	Licensing or registration renewals	Inspection requirements	Inspection staff	Percent of time allocated to inspections
New York	Funeral homes are required to register, but are not licensed. Funeral directors are required to be licensed and registered. There is no separate license for embalmers	Funeral firms and funeral directors are required to renew their registrations every 2 years.	There is no specific requirement for New York's estimated 1,985 funeral firms to be inspected, but they are inspected on a "recurrent basis."	There are 2 investigators who, among other things, are responsible for inspecting New York's estimated 1,985 funeral firms.	The investigators spend an estimated 20% of their time on inspections of funeral firms and the remainder of their time on other issues related to regulation of funeral firms, funeral directors, and sales of pre-need funeral plans.
Texas	Funeral homes, funeral directors, and embalmers are required to be licensed.	Funeral home licenses are to be renewed annually and licenses for funeral directors and embalmers are to be renewed every 2 years.	Each of Texas's estimated 1,300 funeral homes is to be inspected at least once every 2 years.	There are 2 inspectors who, among other things, are responsible for inspecting Texas's estimated 1,300 funeral homes.	The inspectors spend an estimated 90% of their time on inspections of funeral homes and the remainder of their time on other issues related to regulation of funeral homes and funeral directors.

Source: GAO analysis of data provided by officials within the 6 case study states.

**Appendix IX: Comparison of Regulation of the
Death Care Industry across the 6 Case Study
States**

Table 9: Comparison of Requirements for Crematories across the 6 Case Study States

State	Licensing or registration requirements	Licensing or registration renewals	Inspection requirements	Inspection staff	Percent of time allocated to inspections
California	Crematories and crematory operators are required to be licensed.	Licenses for crematories and crematory operators are to be renewed annually.	Each of California's 176 crematories is to be inspected annually.	There are 2 inspectors responsible for inspecting and investigating complaints about California's 176 licensed crematories and its 190 licensed cemeteries. Effective July 1, 2003, 3 more inspectors will be available to inspect and investigate crematories and cemeteries.	The inspectors spend 100% of their time on inspections and investigations of crematories and cemeteries.
Florida	Crematories are required to be licensed, but not crematory operators. Each crematory, however, must designate a licensed funeral director to be in charge.	Crematory licenses are to be renewed every 2 years	Each of Florida's 123 crematories is to be inspected annually.	There are 17 inspectors responsible for inspecting Florida's 123 crematories and its 895 funeral homes.	The inspectors spend an estimated 8% of their time on inspections of funeral homes and crematories. They are also responsible for inspecting other funeral-related facilities, such as removal services, direct refrigeration facilities, centralized embalming facilities, and direct disposers in addition to barber shops, veterinary clinics, and cosmetologists.
Georgia	Crematories are required to be licensed, but not crematory operators. Each crematory, however, must designate a funeral director to be in charge.	Crematory licenses are to be renewed every 2 years	As of May 2002, each of Georgia's 46 crematories is to be inspected at least once per year.	There are 2 inspectors responsible for inspecting Georgia's 46 crematories and its 736 funeral homes.	The inspectors spend 100% of their time on inspections of crematories and funeral homes.
Hawaii	Neither crematories nor crematory operators are required to be licensed.	Not applicable.	Crematories are not required to be inspected.	Not applicable.	Not applicable.

**Appendix IX: Comparison of Regulation of the
Death Care Industry across the 6 Case Study
States**

State	Licensing or registration requirements	Licensing or registration renewals	Inspection requirements	Inspection staff	Percent of time allocated to inspections
New York	Neither crematories nor crematory operators are required to be licensed. However, New York's Cemetery Board must approve every certificate of incorporation of a cemetery corporation, which includes crematories.	Not applicable.	Each of New York's 43 crematories is to be inspected twice a year.	The state has the equivalent of 2.5 inspectors available to conduct inspections of crematories. These inspectors also inspect cemeteries.	The inspectors spend an estimated 10% of their time inspecting crematories. The inspectors spend the rest of their time performing other duties related to regulation of crematories and cemeteries.
Texas	Neither crematories nor crematory operators are required to be licensed, but crematories must register. ^a	Crematories must annually renew their registration. ^a	Crematories are not required to be inspected, but inspections are performed if a complaint is received. ^b	Not applicable.	Not applicable.

Source: GAO analysis of data provided by officials within the 6 case study states.

^aEffective September 1, 2003, crematories in Texas will be required to be licensed and the licenses will be required to be renewed annually.

^bEffective September 1, 2003, crematories in Texas will be required to be inspected at least once every 2 years. If the Texas Funeral Service Commission finds a violation, the crematory is required to be inspected annually until the Commission determines the crematory is free of violations.

**Appendix IX: Comparison of Regulation of the
Death Care Industry across the 6 Case Study
States**

Table 10: Comparison of Requirements for Cemeteries across the 6 Case Study States

State	Licensing or registration requirements	Licensing or registration renewals	Inspection requirements	Inspection or examination staff	Percent of time allocated to inspections or examinations
California	Some cemeteries are required to be licensed and cemetery managers are required to be licensed.	Licenses for non-exempt cemeteries and for cemetery managers are to be renewed annually.	Effective July 1, 2003, each of California's 190 licensed cemeteries is subject to annual inspections.	There are 2 inspectors responsible for inspecting and investigating California's 190 licensed cemeteries and its 176 crematories. Effective July 1, 2003, 3 more inspectors will be available to inspect and investigate cemeteries and crematories.	The inspectors spend 100% of their time on inspections and investigations of cemeteries and crematories.
Florida	The state estimates that it has 3,000 cemeteries, but most are exempt from regulation. While some cemeteries are required to be licensed, cemetery operators are not required to be licensed.	Licenses for non-exempt cemeteries are to be renewed annually.	Each of Florida's 173 licensed cemeteries is to be inspected annually, with financial examinations to be performed very 3 years.	There are 11 field examiners responsible for inspecting/examining Florida's 173 licensed cemeteries and sellers of pre-need funeral plans.	The field examiners spend 100% of their time on inspections of licensed cemeteries and financial examinations of cemeteries and sellers of pre-need funeral plans.
Georgia	Some cemeteries are required to register. Cemetery operators are not required to be licensed, but they must register.	Registrations for non-exempt cemeteries and for cemetery operators are to be renewed annually.	There is no requirement for inspections of Georgia's 206 registered cemeteries, but they are inspected in response to complaints.	There are 3 investigative analysts responsible for examining Georgia's 206 registered cemeteries.	The investigative analysts spend an estimated 25% of their time on inspections of registered cemeteries. In addition, they review cemetery trust fund and escrow records and accounts and annual financial statements for cemeteries. They are also responsible for reviewing financial records for other types of businesses, like sellers of pre-need funeral plans and charities.

**Appendix IX: Comparison of Regulation of the
Death Care Industry across the 6 Case Study
States**

State	Licensing or registration requirements	Licensing or registration renewals	Inspection requirements	Inspection or examination staff	Percent of time allocated to inspections or examinations
Hawaii	Some cemeteries are required to be licensed, but cemetery operators are not required to be licensed.	Licenses for non-exempt cemeteries are to be renewed every 2 years.	There is no requirement for inspections of Hawaii's 14 licensed cemeteries, but they can be inspected in response to complaints.	Not applicable.	Not applicable.
New York	There is no requirement for cemeteries or cemetery operators to be licensed, but the Cemetery Board must approve the certificate of incorporation for each cemetery and all regulated cemeteries are required to be not-for-profit corporations.	Not applicable	Inspections of New York's 1,860 regulated cemeteries are conducted every 6 or 7 years, but are done more frequently if complaints are received.	There are the equivalent of 2.5 inspectors responsible for inspecting New York's 1,860 regulated cemeteries.	The inspectors spend an estimated 20% of their time inspecting cemeteries. The inspectors spend the rest of their time performing other duties related to regulation of cemeteries and crematories.
Texas	There is no requirement for cemeteries or cemetery operators to be licensed, but cemeteries must register with the state. ^a Texas did not provide information on the number of cemeteries that are exempt from regulation.	Cemeteries must annually renew their registration with the state. ^a	There is no requirement for Texas's 232 registered cemeteries to be inspected unless a complaint is received. ^b	There are 8 examiners responsible for on-site examinations at Texas's 232 registered cemeteries.	These 8 examiners spend an estimated 35% of their time examining registered cemeteries. The examiners spend the majority (65%) of their time examining trust funds and contracts for pre-need funeral plans.

Source: GAO analysis of data provided by officials within the 6 case study states.

Note: Of the 6 case study states, only Florida provided information on the total number of cemeteries that operate in their state. The types of cemeteries that are exempt from regulation include those cemeteries that are affiliated with a religious organization or that are owned and operated by a municipality.

^aEffective September 1, 2003, cemeteries in Texas will be required to be licensed by the Texas Funeral Service Commission. These licenses will have to be renewed annually. This licensing requirement, however, does not apply to certain cemeteries—such as cemeteries owned by a municipality or family, or by a fraternal or religious organization.

^bEffective September 1, 2003, cemeteries will be required to be inspected at least once every 2 years. If the Texas Funeral Service Commission finds a violation, the cemetery is required to be inspected annually until the Commission determines the cemetery is free of violations.

**Appendix IX: Comparison of Regulation of the
Death Care Industry across the 6 Case Study
States**

Table 11: Comparison of Requirements for Pre-Need Funeral Plan Sales Funded by Trusts in the 6 Case Study States

State	Licensing or registration requirements	Licensing or registration renewals	Trusting requirements	Reimbursement requirements	Inspection/audit resources
California	State regulates only pre-need funeral plan sales by funeral homes in which the proceeds are placed in trust.	Not applicable.	Sellers of pre-need funeral plans are required to place into trust 100% of the principal paid for funeral and cemetery goods and services.	If a purchaser cancels a pre-need contract, the seller is required to refund 100% of the principal paid and cannot take more than 10% of the interest that may have accrued.	There are 4 auditors who review pre-need contracts for proper language and for ensuring the soundness of funds placed in trust.
Florida	Companies that wish to sell pre-need funeral plans are required to obtain a "certificate of authority" that authorizes them to sell pre-need funeral plans in Florida. Sales agents for these companies are not required to be licensed, but they must register.	Companies are required to renew their certificate of authority each year and to annually submit financial statements. Sales agents of these companies are required to renew their registration with the state every 2 years.	Sellers of pre-need funeral and cemetery goods are required to place into trust 110% of the wholesale cost or 30% of the retail price, whichever amount is greater for each good sold. Pre-need sellers of funeral or cemetery services are required to place into trust a minimum of 70% of the total principal.	If a purchaser cancels the pre-need contract within 30 days of purchase, the seller is required to refund 100% of all funds paid. If a purchaser cancels the pre-need contract more than 30 days after purchase, the seller is required to refund 100% of the principal invested for unused services, but can retain any interest that may have accrued. Sellers, however, are required to deliver goods as stated in the pre-need contract or make arrangements with another seller to deliver the purchased goods.	There are 11 examiners who, besides inspecting and examining licensed cemeteries, also examine pre-need licensees (companies) to ensure, among other things, that pre-need contracts meet state requirements, sales agents are properly registered, and whether the licensees supported withdrawals from its trust fund.

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State	Licensing or registration requirements	Licensing or registration renewals	Trusting requirements	Reimbursement requirements	Inspection/audit resources
Georgia	Neither companies that sell pre-need funeral plans nor their sales agents are required to be licensed, but the companies and their sales agents are to register.	Companies that sell pre-need funeral plans and their sales agents are to renew their registration with the state each year.	Sellers of pre-need funeral plans are required to place in trust 100% of the principal paid. For pre-need funeral goods, sellers are required to place in trust 100% of the principal paid, while sellers of cemetery goods (monuments and outer burial containers) are required to place in trust 35% of the principal paid or 110% of the wholesale price.	If a purchaser cancels the pre-need contract, the seller is required to refund 100% of the principal invested and 100% of any interest that may have accrued.	There are 3 investigative analysts responsible for examining financial statements of sellers of pre-need funeral plans. These field examiners are also responsible for examining financial records of other businesses, like cemeteries and charities.
Hawaii	Companies that want to sell pre-need funeral plans in Hawaii are required to obtain a "pre-need funeral authority license." The companies' sales agents are not required to be licensed or registered.	Companies are required to renew their "pre-need funeral authority license" every 2 years.	Companies that sell pre-need funeral plans are required to place in trust 70% of the principal and can retain up to 30% for recovery of acquisition costs.	Purchasers of pre-need funeral plans that cancel their contract are entitled to a refund of 100% of the principal they paid, but none of the interest that may have accrued.	A staff person reviews pre-need contracts and trust agreements with assistance from the Deputy Attorney General. Companies that sell pre-need funeral plans are required to submit an audited financial statement and an actuarial statement on a fiscal or calendar year basis. The state's consultant reviews the financial and actuarial statements.
New York	In New York, only licensed and registered funeral directors can sell pre-need funeral plans funded by trusts. As such, there is no separate license for sellers of pre-need funeral plans.	Registrations for selling pre-need funeral plans are to be renewed every 2 years.	Sellers of pre-need funeral goods and services and pre-need cemetery goods are required to place in trust 100% of the principal paid. There is no requirement to place in trust proceeds from the sale of cemetery services.	If a purchaser cancels a pre-need contract, the seller is required to refund 100% of the principal paid and 100% of any interest that may have accrued.	Two investigators perform reviews of pre-need funeral plan contracts. These 2 investigators are also responsible for regulations involving funeral homes and funeral directors.

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State	Licensing or registration requirements	Licensing or registration renewals	Trusting requirements	Reimbursement requirements	Inspection/audit resources
Texas	Companies that wish to sell trust-funded pre-need funeral plans in Texas are required to obtain a permit from the Department of Banking. Texas does not regulate or license the sales agents for these companies.	Companies that sell trust-funded pre-need funeral plans in Texas are required to renew their permit at least once per year.	Sellers of pre-need funeral plans are required to place in trust 90% of the principal for funeral and cemetery goods and services. Sellers are permitted to retain 10% of the principal.	For contracts purchased prior to September 1, 2001, or held for less than 1 year, if a purchaser cancels a pre-need contract, the seller is required to refund 90% of the principal invested, but is permitted to retain all of the interest that may have accrued. For trust-funded pre-need contracts purchased on or after September 1, 2001, if the purchaser cancels the contract after 1 year, the seller is required to refund 90% of the principal invested and 50% of any interest that may have accrued.	Texas has 8 examiners who spend 65% of their time on reviewing pre-need funeral plan sales contracts and examining the trust funds from sales of pre-need funeral plans. These examinations are performed every 12 to 16 months. These same 8 examiners spend the remaining 35% of their time examining financial records of regulated cemeteries.

Source: GAO analysis of data provided by officials within the 6 case study states.

Appendix IX: Comparison of Regulation of the Death Care Industry across the 6 Case Study States

Table 12: Comparison of Requirements for Third Party Sales of Funeral Goods across the 6 Case Study States

State	Licensing or registration requirements
California	There is no licensing or registration requirement for third party sellers of funeral goods, but California requires that casket retailers provide a General Price List, individual price tag, and an itemized contract.
Florida	There is no licensing requirement for third party sellers of funeral goods, but monument dealers are required to (1) register with the state, (2) be located in a physical location with a street address, (3) and pay a registration fee. Monument dealers must renew their registration every 2 years.
Georgia	Some third party sellers are required to register with the Office of the Secretary of State. These registrations are to be renewed at least once per year ^a
Hawaii	There is no licensing or registration requirement for third party sellers of funeral goods.
New York	There is no licensing or registration requirement for third party sellers of funeral goods.
Texas	There is no licensing or registration requirement for third party sellers of funeral goods.

Source: GAO analysis of data provided by officials within the 6 case study states.

^aIn Georgia, some third party sellers are exempt from registration requirements, such as those providing interment and disinterment services exclusively at cemeteries that are exempt from regulation.

Appendix X: Consolidation of the Death Care Industry and the Interstate Transit of Human Remains

Consolidation of the Death Care Industry

During our review, questions arose about the extent to which the death care industry has been undergoing a transformation from an industry comprised of small, family-owned businesses to one where many of the small businesses had been “consolidated” under corporate ownership by large, publicly traded companies. The variety of possible ownership arrangements for this industry, as for any other, can take a range of forms, including single ownership of one establishment, single ownership of multiple establishments (that could exclusively be of one type such as funeral homes, or multiple types, such as funeral homes and cemeteries), partnerships of various configurations, to corporations of all sizes. We contacted death care industry associations, state regulators in the 6 case study states, and national and state consumer associations to gather data on the configuration of the death care industry, and particularly on ownership of death care-related businesses by large corporations, but found very limited data available.

According to officials within the death care industry and state regulators within the 6 case study states, the corporate purchases of funeral homes and cemeteries reached a peak in the late 1990s. Since that time, according to these officials, the large, publicly traded corporations have been divesting themselves of funeral homes and cemeteries. Data we obtained from the National Funeral Directors Association (NFDA) support these officials’ statements. According to NFDA data, as of July 2003, there were an estimated 21,710 funeral homes in the United States—89 percent of which were owned by individuals, families, or closely held private corporations and the remaining 11 percent were owned by one of the publicly traded corporations. The data further show that while the number of funeral homes in the United States has remained fairly stable since 1998, the percent of funeral homes in the United States owned by one of the publicly traded corporations has decreased slightly since 1998—from 13 percent in 1998, to 12 percent in 2002, and then to 11 percent in 2003.¹ We have not reviewed these data to verify their validity, and our information on corporate ownership relate only to the large, publicly traded corporations.

¹Data on corporate ownership of funeral homes in the United States were not available for prior years because until recently, NFDA has not gathered these data on a regular basis.

Interstate Transit of Human Remains

While it is clear that a number of people die each year in locations other than where they or their families want their remains to be placed, no systematic data are available to document the extent to which death care transactions involve the shipment of human remains across state lines. Human remains can be transported from location to location, including across state lines, by aircraft, motor vehicles, trains, or other modes of transportation. For those living and working in areas proximate to state boundaries, the transport of human remains across jurisdictions is no doubt routine. For example, an individual could die in Maryland and be transported to Virginia or the District of Columbia for burial. Similarly, an individual could work and die in New York City and be transported to the location of his home in New Jersey or Connecticut for burial. The number of these interstate movements is generally not maintained.

We were unable to gather data from airlines or interstate shipping companies about the extent to which death care transactions involve interstate transport of human remains because either they did not compile such data or they would not share these data for proprietary reasons.² We also contacted officials in our 6 case study states to find out if their states maintain records of the interstate transit of human remains either to or from their state. Only Florida was able to provide any data on this issue. Specifically, the data provided by a state official showed that, between 1999 and 2002, the remains of between 14 and 15 percent of the individuals who died in Florida were transported out-of-state. State officials did not have data on the number of bodies that were transported into Florida from other states for final disposition.

²One airline was willing to provide data for 3 recent years, but we are not reporting the data because we were unable to obtain comparable data from other airlines or interstate shipping companies to provide a more complete picture of trends involving the interstate transport of human remains.

Appendix XI: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

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Glossary

This glossary is provided for reader convenience, not to provide authoritative or complete definitions.

Cemetery

An area of ground set aside for burial or entombment.

Cemetery Operator

The person who operates or manages the cemetery.

Cremation

The process of burning human remains and the container encasing them and processing the resulting bone fragments into ash.

Crematory

A furnace for cremating remains or a building housing such a furnace.

Crematory Operator

The person who is responsible for operating or managing the crematory.

Embalming

The process of preserving a dead body by means of circulating a preservative fluid through the veins and arteries.

Embalmer

A professional who disinfects or preserves dead human bodies by the injection or external application of antiseptics, disinfectants, or preservative fluids.

Funeral Director

A professional who prepares for the burial or other disposition of dead human bodies, supervises such burial or disposition, maintains a funeral establishment for such purposes, counsels with survivors. Synonym: mortician, undertaker.

Funeral Home

A building used for the purpose of embalming, arranging and conducting funerals. Also called "funeral establishment," "funeral firm," or "mortuary" in some states.

Monument or Memorial Marker

A method of identifying the occupant of a particular grave. Monuments or markers are usually of metal or stone, which gives such data as the name of the individual, date and place of birth, date and place of death.

Mortuary Science	That part of the funeral service profession dealing with the proper preparation of the body for final disposition.
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Pre-need Funeral Plan	A contractual agreement whereby funeral and/or burial arrangements are made and paid for by an individual prior to his/her death.
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Third Party Sellers of Funeral Goods	Companies or businesses that are not affiliated with a funeral home or cemetery that sell funeral goods.
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