



*Funeral Board of Manitoba
Conseil des services funéraires
du Manitoba*

The Prearranged Funeral Services Act
Regulation

Consultation Document

July 2015

About this consultation

In June 2011, *The Grieving Families Protection Act* (GFPA) was passed by the Manitoba Legislature. The GFPA made changes to three existing acts including *The Prearranged Funeral Services Act*.

Drafting regulations for *The Prearranged Funeral Services Act* has been ongoing since the 2012 public consultation.

The Funeral Board of Manitoba and the Government of Manitoba want to ensure that all stakeholders get an opportunity to review the draft regulation changes prior to implementation and to submit suggestions or possible concerns about the regulation.

Background

In June 2011, *The Grieving Families Protection Act* was passed by the Manitoba Legislature. This Act made changes to three existing acts:

- *The Cemeteries Act*
- *The Funeral Directors and Embalmers Act*
- *The Prearranged Funeral Services Act*.

Following the stronger regulations set out in *The Grieving Families Protection Act*, *The Prearranged Funeral Services Act* will enhance protection for Manitobans who purchase prepaid funeral plans by:

- Allowing contract cancellation for up to 10 days without penalty.
- Requiring payment be made directly to a trust or insurance company trust fund to ensure the money will be available when needed.
- Making it an offence to:
 - Exert undue pressure,
 - Take advantage of a person's inability to understand a plan,
 - Make a sale knowing the person is unable to pay and/or,
 - Misrepresent a service as a legal requirement or a cemetery rule.
- Giving the Funeral Board of Manitoba inspection and disciplinary powers and increasing the fines for conviction of offences under the Act to \$10,000 from \$200 for an individual, plus up to one year in jail, and to \$50,000 from \$500 for a corporation.

This change will consolidate the administration of three funeral services Acts to one government agency, the Funeral Board of Manitoba.

Process

Please take some time to review the draft regulation and consider the questions within this document. You can then submit your answers, comments or concerns to funeralboard@gov.mb.ca, by fax to 204-945-0424 or by using the space provided in this consultation document to reply by mail to:

Funeral Board of Manitoba
254 Portage Avenue
Winnipeg MB R3C 0B6

All are welcome to review the documents and share their views by responding to this request **no later than August 1, 2015**.

This package is also available online at www.funeraldirectorsboard.ca.

Considerations

Licences

The application for licence by funeral director set out specific documents which must be provided to the Funeral Board of Manitoba when an individual makes an application to be licensed to sell Prearranged Funeral Plans.

Section 2(1) (d) states: “provide a copy of the following:

- (i) The form of prearranged funeral plan that the licensee proposes to use,
- (ii) The general price list,
- (iii) If there is an authorized trustee, the agreement with the authorized trustee respecting the payment, deposit, investment and management of money paid under prearranged funeral plans.”

1. *Should all of these documents be submitted to the Funeral Board of Manitoba?*

Yes

No

If you answered no, please explain why.

Section 2(2) states: “The form of the prearranged funeral plan referred to in subclause (1)(d)(i) must be acceptable to the board.”

Section 2(3) states: “The agreement with an authorized trustee referred to in subclause (1)(d)(iii) must be acceptable to the board.”

2. *Should the Funeral Board of Manitoba be approving agreements between the licensees and the trust companies?*

Yes

No

If you answered no, please explain why.

Section 2(4) states: "After a licence is issued, a licensee must not alter or change the form of a prearranged funeral plan, or alter or change the agreement with an authorized trustee, provided under subsection (1), unless the licensee has first obtained the board's written approval for the alteration or change."

3. *Should the Funeral Board of Manitoba be reviewing changes or amendments to the form of a prearranged funeral plan or the agreement with an authorized trustee?*

Yes

No

If you answered no, please explain why.

The annual fee to renew a licence to sell prearranged funeral plans where there is an authorized trustee have not changed. However, a \$100 fee to sell prearranged funeral plans funded by insurance has been added. This fee has been added to allow for monitoring of individuals selling these plans.

Section 3(2) states: "The annual fee to renew a licence is base on the number of active prearranged funeral plans for the previous calendar year for which there is an authorized trustee, as set out in the report the licensee must submit under subsection 9 (1), as follows:

- (a) For up to 100 plans\$100
- (b) for 101 to 250 plans\$175
- (c) for 251 to 500 plans\$300
- (d) for 501 to 1000 plans\$550
- (e) for 1001 to 25000 plans\$1,300
- (f) for more than 2500 plans\$2,050
- (g) where all prearranged funeral plans sold by the licensee are funded by insurance policies, an annual fee of \$100."

Information kept up to date

Section 4 states: "Within 15 days of any change in the salespersons or agents that a licensee employs, the licensee must

- (a) inform the board of the change in a form approved by the board; and
- (b) provide a completed licence application form for each new salesperson or agent."

This provision has been added to ensure that all files are accurate and kept up to date in the event of a complaint or inquiry about a specific licensee, salesperson or agent.

4. *Please share any comments, suggestions or concerns.*

Requirement for plans

Cancellation rights and administrative fees (if charged) must be disclosed on the prearranged funeral plan so the purchaser is aware of their right to cancel the agreement and the administrative costs they will incur as a result of purchasing the plan.

Section 6 (1) (h) states: “a statement that says the following:

The purchaser may cancel this plan at any time. There is no penalty fee for cancellation within 10 days after the purchaser receives a copy of the plan.”

5. *Please share any comments, suggestions or concerns.*

Records to be kept for each plan

Sections 7(1) to 8 describe the details of the information required to be kept on file by the licensee. This is especially needed when a complaint is made and investigated.

6. *Please share any comments, suggestions or concerns.*

Annual report by licensee

The proposed regulation in section 9(1) and 9(2) requires licensees to file an annual report with the Funeral Board of Manitoba and sets out the specific information that must be included.

7. *Please share any comments, suggestions or concerns.*

Annual statement by authorized trustee

Section 11(1) to 11(3) of the proposed regulation requires authorized trustees to file an annual report with the Funeral Board of Manitoba and sets out the specific details of the information the authorized trustees must provide in their statements.

8. *Please share any comments, suggestions or concerns.*

Administration fee

Section 12(1) states: "For the purpose of subsection 3.5(4) and section 4 of the Act, the administration fee is the lesser of

- (a) \$250; or
- (b) 10% of the value of the prearranged funeral plan, excluding taxes, interest or other fees."

9. *Are these fees reasonable?*

Yes

No

If you answered no, please explain how much it should be and why.

Section 12(2) states: "A licensee may charge a purchaser an administration fee only once in relation to each prearranged funeral plan, despite any addition, deletion or other change to the products and services to be included in the plan."

10. *Should a licensee be allowed to charge additional fees for additions, deletions or other changes to a plan?*

Yes

No

If you answered yes, please explain how much and why.

Section 12(3) states: “Despite subsections (1) and (2), when the purchaser of a prearranged funeral plan wishes to pay in installments, the administration fee in subsection (1) may include an additional amount for reasonable financing or service charges, which may be paid to the licensee in installments.”

11. *This provision was added to allow licensees to charge an additional amount for financing charges related to installment payments.*

Please share any comments, suggestions or concerns.

Withdrawal of interest from special fund

Section 13 states: “A licensee may withdraw and keep interest accrued in respect of payments deposited in a special fund only if the prearranged funeral plan specifically provides that the licensee may do so.”

12. *Should it be mandatory to deposit the accrued interest into the prearranged trust fund to account for the higher costs of the products and services at the time of death (usually 10 years after the original purchase of the prearranged plan)?*

Yes

No

If you answered no, please explain why.

Complaints and investigations

Sections 15 (1) to 15(8) have been added to give the Board the authority to pursue licensees, salespersons and agents who are not in compliance and/or those in breach of the Act, regulation or Code of Ethics.

13. Please share any comments, suggestions or concerns.

Hearing procedures

Sections 16(1) to 16(15) were added to provide a fair and quasi-judicial recourse when dealing with those who have potentially breached the Act, regulation or Code of Ethics or for those who are in non-compliance.

14. Please share any comments, suggestions or concerns.

Please send us your comments **no later than August 1, 2015.**