



EMBALMING

What you need to know and do

Easy Steps to Compliance

State Law Requires you to:

Get authorization BEFORE embalming. You are in violation of the law if you get permission AFTER you embalm. There are few exceptions to this rule.

Obtaining Permission

The law states that you have an obligation to honor ALL instructions given to you by the authorized representative of the deceased. If the authorized representative has not given you instructions on whether or not to embalm, you are not permitted to embalm. There are only 2 exceptions to this rule as it relates to UNCLAIMED BODIES or BODIES WITH CONTAGIOUS DISEASE. See below for details.

If you received the decedent from another funeral home, and the other funeral home has already obtained permission to have the body embalmed, you may embalm the body without consulting directly with the authorized representative of the decedent IF the other funeral home provides proof they obtained permission.

Viewing Unembalmed Bodies

You are allowed to establish a general policy that you will only conduct an open-casket funeral on a body which has been embalmed. You are not required to establish this policy. You are allowed to let persons view an unembalmed body, if you follow the procedure described in the next paragraph.

If you decide that you will allow persons to view an unembalmed body, you are required to provide a written disclosure to the person(s) who is asking to view the body. The disclosure must contain information pertaining to the potential spread of contagious disease or other possible hazards. You must thoroughly discuss these risks with the person(s) who is asking to view the body. AFTER you discuss these risks, you are allowed to have the person(s) sign a form releasing you from any liability if you wish.

Every person, other than the embalmer, should be provided with the information listed in the paragraph above if that person will be in a room with an unembalmed body. This would include families of the decedent, outside contractors (such as electrician, plumber, etc.), clerical staff, hairdresser, etc. Obviously, if there is no body present in the preparation room, you would not be obligated to provide information outlined in the paragraph above.

If you allow a private or public visitation with an unembalmed body, you are required to follow the

procedures in the second paragraph above FOR EVERY PERSON WHO ATTENDS the visitation. This can be burdensome and that is the reason that you are allowed to establish a general policy that you will not allow a public viewing of an unembalmed body, if you wish.

When can I embalm without permission from the authorized representative?

If the authorized representative refuses to authorize an embalming, but you have reasonable belief that the body is infected with a contagious or communicable disease AND embalming the body would eliminate the risk of spreading the disease, then you are allowed to embalm without permission from the authorized representative. BUT, you are required to get a written certification of the condition along with a request that the body be embalmed from a public health officer prior to embalming. There are no time restrictions.

If you have tried to contact the authorized representative of the decedent and have not been able to reach him/her, you are allowed to embalm. The following is the procedure you are required to follow:

1. If you have made legitimate attempts to contact the next of kin or authorized representative without success within twelve (12) hours after the body was placed in your care, you are allowed to embalm the body AFTER this twelve (12) hour period has elapsed. You are required to document your attempts in detail.
2. If you have made legitimate attempts to contact the next of kin or authorized representative without success and have reasonable belief that the body could be infected with a contagious or communicable disease, you are allowed to embalm the body immediately upon receipt of certification by a public health officer that the body is infected with a contagious or communicable disease. You are allowed to embalm the body prior to the end of twelve (12) hour period described in #1. Again, you are required to document your attempts in detail.
3. You are entitled to payment for embalming from the deceased person's estate, pre-need contract, applicable insurance policies or trust funds, or indigent burial programs IF you follow all the proper procedures described above.

Don't Get These Requirements Confused with Federal Trade Commission Requirements.

Federal law only says that if you don't get permission to embalm, you are not allowed to charge for embalming. West Virginia law also says that you are not allowed to charge a fee, except in special cases (described above). BUT, West Virginia law takes it one step beyond and simply prohibits embalming without authorization (except in cases described above). West Virginia law is more stringent. And, the Board has taken disciplinary action in the past on funeral homes that fail to obtain permission. So, DO NOT routinely embalm bodies WITHOUT first consulting with the authorized representative. This is particularly important for persons whose religious beliefs prohibit embalming!

This information sheet is designed to aid you in complying with state funeral laws.

