Chapter 98-14 WAC
PREARRANGEMENT CONTRACTS

WAC

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WAC 98-14-010 Definitions. All definitions of chapter 68.46 RCW apply to this chapter of WAC. In addition, the following definition applies:

"Direct cost" for the purpose of chapter 68.46 RCW, direct cost includes actual labor cost and other costs associated with delivery of the service. For example: Direct cost of providing an opening and closing may include labor, materials, fuel, equipment maintenance, and a share of overhead including benefits and insurance.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-010, filed 5/15/07, effective 6/15/07; Order CB 101, § 98-14-010, filed 10/17/75.]

WAC 98-14-020 Itemization of charges. In addition to all other requirements of the law relating to consumer contracts, prearrangement contracts must have:

• A specific itemization of charges and descriptions for each merchandise or service to be furnished or delivered.

• An itemization of services to be performed on delivered merchandise such as marker installation and care.

• An itemization of charges and descriptions for each grave niche or crypt sold.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-020, filed 5/15/07, effective 6/15/07; Order CB 101, § 98-14-020, filed 10/17/75.]

WAC 98-14-030 Form of delivery. All prearrangement contracts must state on the contract what form or forms of delivery of merchandise will constitute "delivery" to satisfy the requirements of RCW 68.46.050.

[Order CB 101, § 98-14-030, filed 10/17/75.]

WAC 98-14-040 Performance of services. Prearrangement services, including shipment and installation of prearrangement merchandise, shall not be deemed to have been furnished within the meaning of RCW 68.46.050(1) until performance of such services has actually occurred.

[Order CB 101, § 98-14-040, filed 10/17/75.]

WAC 98-14-050 Determination of delivery. Prearrangement merchandise and services will be delivered within the meaning of RCW 68.46.050(1) when:

(1) Actual delivery of the merchandise is made to the contract beneficiary; or

(2) Delivery of the merchandise is made to the cemetery authority for the contract beneficiary and the merchandise is permanently affixed to real property or a mausoleum; or

(3) Delivery of the merchandise to the cemetery authority for the contract beneficiary with the storage provided by the cemetery authority, provided that fifty percent of the service charge of the installation and other services to be performed upon the merchandise is maintained in the prearrangement trust fund, and an insurance provision is maintained when stored in a building: Provided, That no insurance is necessary when merchandise is affixed to the grave; or

(4) The cemetery authority has paid its supplier for prearrangement merchandise, and the supplier has caused the merchandise to be manufactured and stored, and has caused title to the merchandise to be transferred to the contract beneficiary, and has agreed to ship the merchandise upon his request or the request of the cemetery authority: Provided, That fifty percent of the service charge of delivery, installation and other costs are maintained in the prearrangement trust fund by the cemetery authority. The delivery and installation cost must be itemized upon the prearrangement contract, in accordance with WAC 98-14-020. This subsection will apply to the manufacture and storage of merchandise, such as, but not limited to, vaults, liners, urns and marker bases, that are not permanently labeled or engraved with the beneficiaries' name.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-14-050, filed 9/9/02, effective 10/10/02; Order CB 101, § 98-14-050, filed 10/17/75.]

WAC 98-14-060 Suppliers. No person, firm or corporation will be deemed a supplier for purposes of chapter 98-14 WAC, unless it:

(1) Permanently and unalterably identifies all merchandise with the name of the contract beneficiary; and

(2) Submits, upon request of the board, a report of all merchandise which has been purchased through a Washington cemetery authority and has been placed in storage; and

(3) Permits the board or its designee, at any time, to examine stored merchandise which was purchased through a Washington cemetery authority and to examine any document pertaining thereto; and

(4) Submits evidence of a bond insuring the existing and good title of any merchandise due any contract beneficiary purchased through a Washington cemetery authority; and

(5) Submits evidence insuring that all merchandise purchased through a Washington cemetery authority and being stored by the supplier is insured for casualty, theft or other loss.

Subsection (1) of this section will not apply to merchandise that is manufactured and stored without being perma-

nently labeled or engraved with the beneficiaries' name. Suppliers must maintain an inventory equal to the amount sold.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-14-060, filed 9/9/02, effective 10/10/02; Order CB 101, § 98-14-060, filed 10/17/75.]

WAC 98-14-070 Securities for loans. In any instance where a prearrangement contract containing undelivered merchandise or services is sold, pledged or otherwise encumbered as security for a loan by cemetery authority, the cemetery authority shall pay into the prearrangement trust fund fifty percent of the total sale price of the prearrangement contract within twenty days of receipt of payment of the proceeds from the sale or loan.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-14-070, filed 9/9/02, effective 10/10/02; Order CB 101, § 98-14-070, filed 10/17/75.]

WAC 98-14-080 Development plan for unconstructed, undeveloped property. Any cemetery authority selling undeveloped graves, unconstructed crypts or niches in accordance with chapter 68.46 RCW must make available to the purchaser at the time the prearrangement contract is signed.

• A statement of estimated time schedule of the development or construction.

Estimated time schedule must:

• Be submitted to the cemetery board annually with the financial reports required by RCW 68.46.090.

• Be made available to holders of prearrangement contracts affected by the development or construction in the offices of the cemetery authority.

A cemetery authority must maintain an equivalent inventory of constructed crypts, niches and developed graves, equal to ten percent of the unconstructed crypts, niches and undeveloped graves sold through prearrangement contracts. The equivalent inventory must be located within the cemetery or an adjacent cemetery under common ownership.

Trust fund deposits required for the prearrangement contract sales of undeveloped property, will be in accordance with RCW 68.46.030.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-080, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.100. 02-19-018, § 98-14-080, filed 9/9/02, effective 10/10/02; 83-02-063 (Order 106), § 98-14-080, filed 1/5/83.]

WAC 98-14-090 Records of prearrangement trust funds. Any cemetery authority maintaining a prearrangement trust fund shall maintain a current accounting system in accordance with generally accepted accounting principles. The system shall track sales, receipts and disbursements and include the following:

(1) An individual contract or agreement with each individual establishing a prearrangement trust agreement.

(2) A record of payments received and the amount due or paid to the prearrangement trust fund.

(3) Reconciliation of payments to and from the fund.

(4) All supporting bank and investment statements.

All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall:

• Be retained and available for inspection for a period of seven years.

• Be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-090, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-14-090, filed 3/31/89. Statutory Authority: RCW 68.05.100. 83-02-063 (Order 106), § 98-14-090, filed 1/5/83.]

WAC 98-14-100 Qualifications of applicant for prearrangement sales license. To qualify as an applicant for a prearrangement sales license as set forth in RCW 68.05.155 and 68.46.150, applicant must hold a valid and unsuspended certificate of authority to operate a cemetery issued by the Washington state cemetery board.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-100, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-14-100, filed 3/31/89.]

WAC 98-14-200 Telephone solicitation. (1) The use of telephones for solicitation of prearrangements is prevalent. This form of communication offers unique benefits, but entails special risk and poses potential for abuse. The board finds that any impropriety in telephone solicitation is a matter vitally affecting the public interest. For the general welfare of the public and in order to protect the integrity of the cemetery industry, the use of telephones in solicitation of prearrangements must be defined by the board.

(2) Definitions:

(a) "Telephone solicitor" means any person who engages in telephone solicitation on behalf of a holder of a certificate of authority to operate.

(b) "Telephone solicitation" means an unsolicited telephone call to a person and conversation for the purpose of inducing the person to make cemetery prearrangements made without previous invitation, expressed or implied, by the person called.

(3) Time limits:

(a) No licensee may knowingly cause a telephone solicitation to be made to any person more often than once in every six months.

(b) A telephone solicitor shall not place calls which will be received before 8:00 a.m. or after 9:00 p.m.

(4) Unfair/deceptive practices. A telephone solicitor may not engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

(5) Identification. Within the first thirty seconds of the telephone call, a telephone solicitor or salesperson shall:

(a) Identify himself or herself, the company on whose behalf the solicitation is being made, the property, goods, or services being represented; and

(b) Terminate the telephone call within ten seconds if the purchaser indicates he or she does not wish to continue the conversation.

(6) Termination of contact. If at any time during the telephone contact, the purchaser states or indicates that he or she does not wish to be called again by the telephone solicitor or wants to have his or her name and individual telephone number removed from the telephone lists used by the telephone solicitor, the telephone solicitor shall not make any additional

telephone solicitation of the called party at that telephone number within a period of at least one year.

(7) Enforcement. In the event that the board discerns a pattern of violation of these standards the board may act against the licensee's prearrangement license as provided by Title 68 RCW.

[Statutory Authority: RCW 68.05.105 (1) and (2). 90-17-073, § 98-14-200, filed 8/16/90, effective 9/16/90.]