

§1402. Solicitation of prearranged funerals and funeral business

1. Solicitation generally prohibited. Except as provided in subsection 2, a funeral home, funeral establishment or person holding a license under this chapter may not as, or through, an agent or principal solicit a prearranged funeral service or plan for any person or persons. "Prearranged funeral service or plan" as used in this section means any funeral service or plan that is arranged, planned or determined prior to the death of a person or persons for whom the funeral service is to be performed. A funeral home, funeral establishment or licensee under this chapter may enter into contracts or agreements for prearranged funeral services or plans as long as they do not in any manner either as, or through, principals or agents solicit such contract or agreement. Nothing in this section prohibits the sale of pre-need insurance as defined in Title 24-A, section 711 and as set forth in section 1401, subsection 1-B to a consumer who has contacted a funeral home to prearrange a funeral.

2. Permitted contact and advertising. A funeral home, funeral establishment or 27 licensee under this chapter may:

A. Directly or indirectly contact an individual in a hospital, rest home, nursing home or other similar facility for the purpose of soliciting a prearranged funeral service or plan if that contact has been specifically requested by the individual;

B. Contact by telephone or visit a personal residence of an individual for the purpose of soliciting a prearranged funeral service or plan if that contact or visit has been requested by the individual or a family member residing at the residence;

Suggested Amendment following language from Sec. 3. 24-A MRSA Sec 2152-C

C. Engage in general advertising for the purpose of soliciting a prearranged funeral service or plan, including the use of direct mail or other communication shall include the following disclaimers – a person may not use any advertisement, solicitation, informational brochure, mailer or other promotional material using the terms "pre-need insurance" unless the material:

1. Includes a disclaimer printed on the top and both front and back of the material in type size no smaller than the largest type size on the material stating "This is an advertisement and solicitation";
2. Contains in a type size no smaller than the 2nd largest type size on the material stating "[Name of person sponsoring the promotional material] is a private company";
3. Contains in a type size no smaller than the 2nd largest type size on the material any other disclaimer on the material; and
4. Does not use a type color for the disclaimer required in paragraph A that is in grayscale or other faded tone, or a font that does not mimic or is not similar to a font used in an official document from a state or federal agency.
5. **Application.** The requirements of subsection 1 do not apply to any informational brochure or other material distributed by a person that does not sell or profit from the sale of any insurance product.
6. **Rules.** The Attorney General may adopt rules to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
7. **Violation.** A person that fails to comply with subsection 1 commits a violation of the Maine Unfair Trade Practices Act; and

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Committee Members:

In 2023, the Committee embraced language protecting seniors from printed solicitations involving the Medicare, MaineCare, and Medicaid.

Please accept and incorporate this "draft" amendment adding similar language mirroring those protections for Maine residents for solicitations of pre-need insurance bringing consistency to Maine insurance rules.

Thank you.