

Massachusetts Funeral



Directors Association

A Statement from the

**Massachusetts Funeral Directors Association**

to the

**Joint Committee on Consumer Protection  
and Professional Licensure**

Regarding

**House Bill 275: An Act Relative to Funeral Directors  
Regarding Indigent Funeral Services and DTA Policies**

**July 11, 2023**

**Summary:**

Policies are inconsistent, impractical, and unreasonable, considering the many issues surrounding the disposition of the dead, which must be addressed promptly at a highly sensitive and emotional time.

Massachusetts funeral establishments are not just another small business but rather an essential part of the fabric of a community like other services and institutions — whether they be public safety, medical, educational, or spiritual. It's a reality that we don't think about them often until we are in need of their services.

Funeral establishments exist to support people during times of crisis. They work to protect public health and care for and provide shelter for our deceased loved ones. Funeral directors do this while tending to the emotional and spiritual well-being of the Commonwealth's citizens by providing meaningful services to the families of the deceased. As evidenced by the pandemic, it is important that we work to enable funeral establishments to remain in business to serve their communities and to ensure a healthy and sustained economic framework to assist with the disposition of all of the Commonwealth's residents.

Most funeral directors are trying to offer dignified and respectful services during a time of crisis to the poor in their local communities throughout the Commonwealth on a case-by-case basis. Doing so means recognizing the many variables families desire to honor their loved ones in a manner consistent with their traditions, culture, and religious affiliation. Funeral directors are genuinely concerned about wanting to meet the needs of the deserving poor in our local communities; however, DTA does everything possible to find a way to deny claims, leaving the financial burden of indigent services that have already been performed, often weeks prior, unjustifiably and solely on the funeral establishment.

While funeral directors are well known for being compassionate and generous, some are faced with a more significant share of that responsibility due to issues unique to their communities. The economic impact on these funeral establishments cannot be ignored. We need reasonable DTA policies consistent with and recognizing the many steps that need to be taken by many parties in the disposition of the dead. Policies in line with these many steps must allow for the recovery of most, if not all, of the funeral establishments' expenses and the confidence to know when a funeral home is selected to serve an indigent family, they are viewed like any other professional service provider and as a respected and valuable partner to the Commonwealth. This means funeral establishments are reimbursed fairly, and promptly for services they have already provided to the indigent and are not penalized by DTA for issues that are out of a funeral establishment's control.

It is difficult for us to understand how our legislature could consider that private businesses be required to accept government assistance programs and then tie that requirement to an individual employee's license renewal as regulated by the State Board of Registration in Funeral Directing and Embalming. We are unaware of any other licensed professionals (such

as physicians and dentists) who are denied license renewal for not providing Mass Health funded services.

**Issues:**

DTA does everything possible to deny a claim, making funeral establishments reluctant to use its program. It is a flawed system that puts all the financial burden for the delivery of services provided by the funeral establishment and many other third parties (OCME, municipalities, crematories, transport services, cemeteries, florists, houses of worship, clergy, etc.) solely on the funeral establishment. Again, the funeral establishment is the only party penalized when DTA denies a claim.

The next of kin is currently the applicant for the funding, not the funeral establishment. DTA does not guarantee a funeral establishment payment before the services are provided; therefore, many are reluctant to utilize the program without that assurance. Once the service is complete, some applicants never provide the financial information required for the DTA to approve the claim, and therefore the funeral establishment is the sole bearer of the financial burden for the unpaid balance due to them by the family.

Funeral establishments are expected to provide services at a significantly reduced rate to meet DTA requirements, yet other government agencies and municipalities are not. Third-party government fees include but are not limited to medical examiner fees for cremation viewings, burial permit fees, fees for death certificates, and municipal cemetery fees. These fees are not discounted but are required to be on the statement of goods and services as cash advances and are counted towards the cap of \$3500. These fees alone can often reach several hundred dollars, if not more. We would suggest that the Commonwealth and municipalities waive these fees for DTA burial fund recipients to help share the responsibility for our indigent citizens.

Payment is denied to funeral establishments because a charity, non-responsible family member, or friend donated cemetery space. According to DTA, the value of the donated cemetery space and associated expenses must be added to the cash advances on a funeral bill. When DTA staff adds these donated expenses after the funeral establishment has submitted the invoice for their services and merchandise, the funeral exceeds the cap of \$3,500.

Families are being forced to cremate loved ones despite their family customs and ethnic or religious considerations because of the cap, which (in most instances) eliminates the ability to acquire cemetery space (often thousands of dollars alone) in many parts of the state.

Payment has been denied to the funeral establishment providing services in good faith because the family did not respond to a letter sent by DTA or provide financial documentation of limited assets. The funeral establishment that provided services in a timely fashion is penalized for the family's failure to act long after the services were

rendered. In most cases, the funeral establishment will never receive payment for their services. The funeral home should not be expected to sustain this financial loss due to the actions or inactions of others out of their control.

Payment is denied to funeral establishments because the death notice or website notification indicates that the family was conducting some type of service outside of that provided by the billing funeral establishment. (For example: interring cremated remains at a later date.) DTA staff investigating death notices indicate that the cost associated with the services outside of those provided by the billing funeral establishment must be included in the cash advances on the funeral bill, even though the funeral establishment had no involvement in the "at a later date" services and those services may have never taken place.

DTA creates an embarrassing and challenging situation for funeral establishments when they approve the indigent funeral benefit after the client applies directly to the agency unbeknownst to the funeral establishment. Once approved, the applicant returns to the funeral home to receive the benefit, requesting a reduction in the bill to the capped amount, which obviously cannot be reduced after services have been completed. The funeral director is then often viewed as uncaring and uncooperative.

DTA creates a difficult situation for the funeral establishment when they proactively notify the next of kin of a deceased that they could have qualified for DTA funeral benefits and encourage them to file a claim. However, the disposition has taken place, and the next of kin have selected services, often above the capped limit, and already paid for those services. The funeral director is then unfairly criticized, and the family feels cheated out of a benefit.

Payment is denied to the funeral establishment when a party (non-legally responsible) is willing to provide payment upfront of the \$1,100, expecting reimbursement after the claim is approved and the funeral establishment is paid. (The funeral establishment was unable to bill for the \$1100 in service and take the risk of denial or reduced payment by DTA.) DTA alleges that the funeral establishment acted fraudulently in accepting the \$1,100 and agreeing to refund the payment when and if DTA approved and reimbursed the claim.

With the proliferation of crowdfunding sites, DTA will deny payment to the funeral establishment after their goods and services have been provided based on outside fundraising. Crowdfunding sites are often set up by someone other than the legally responsible next of kin. The funeral home is not the creator or benefactor of the site's fundraising. Therefore, it is difficult to understand how DTA can deny payment of benefits to the funeral establishment for its services based on third-party solicitation and collection of funds to which the funeral establishment, and often the next of kin, have no access.

Funeral Directors accept third-party caskets sold by retail casket stores and internet providers. When another party, not non-legally responsible for the funeral cost, provides a third-party casket to the family, payment is denied to the funeral establishment because this item is not included in the statement of goods and services. (Note: After researching

the death notice, DTA staff inquired why a casket was not included for interment. Adding the casket cost, purchased separately by a non-legally responsible party and not through the funeral establishment, to the statement of goods and services brought the funeral bill over \$3,500, causing the claim to be denied by DTA.) Again, this unduly put the burden of financial loss on the funeral establishment alone.

In attempting to serve the deserving poor, funeral directors often significantly discount their service. However, they are prohibited by DTA from reflecting those discounts on the statement of goods and services. DTA staff indicates that disclosing the actual cost of services and merchandise would bring the total cost, before the funeral establishment's discount, over the cap of \$3,500. Therefore, DTA denies the claim. Yet the actual cost of these services, in nearly all indigent cases, does exceed the DTA capped amount if not for the funeral establishment discounting their services. Funeral establishments are trying to serve this vulnerable population, yet when they document the professional courtesy extended to the indigent, they are penalized by DTA denying claims.

The Federal Trade Commission regulations regarding funeral services state that cash advances are items paid for by the funeral director on behalf of the family. These items must be included on the standard federally mandated invoice – the statement of goods and services. The DTA's insistence that items purchased outside of the funeral establishment, purchases to which the funeral establishment had no involvement and, in some cases, no knowledge and were paid for by those other than the responsible next of kin, such as friends or family, be incorporated into the funeral establishment's statement of goods and services is inconsistent with the definition and funeral business practices.

The charges for the cemetery plot, grave opening, florist, church, and other third-party goods, services, and merchandise must be included as cash advance items on the funeral establishments statement of goods and services per the FTC Funeral Rule. Unlike funeral establishments, however, DTA has no mandated cap on the prices these third parties can charge the indigent. These third parties can charge indigent families their standard rate for goods, services, and merchandise, yet these charges impact the total bill – capped at \$3500. In addition, these parties are not penalized when DTA denies a claim. Again, the only penalized party is the funeral establishment.

When denied benefits or the benefit is reduced due to an unreasonable or impractical policy of DTA, the funeral establishment is the sole bearer of the financial loss. Most often, family members or others are unable or unwilling to come forward to pay the balance due. Whether this happens once or more frequently, funeral establishments are reluctant to provide future services at such significant discounts with no guarantee of payment by DTA.

**Conclusion:**

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This statement is not intended to address the inadequacy of the actual payment to funeral establishments allowed by statute, which is \$1,100 with a maximum final bill, which must

include cash advances to other sources, of \$3,500. This issue is addressed in House Bill No. 139 filed by Representative Chan.

Funeral directors consistently work to provide caring and compassionate services that meet the unique needs of each and every family they serve. We are more than willing to work with the sponsor and other interested parties to form a study committee to address the important issue of caring for our Commonwealth's indigent decedents and their families. Thank you for the opportunity to submit our comments on House Bill No. 275, and we ask that you submit an **OUGHT NOT TO PASS** report in its current form.

Thank you for your time and consideration.

Sincerely,

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The Massachusetts Funeral Directors Association is the funeral directors' professional community and is the recognized voice and resource for information on issues affecting the funeral service profession as well as the bereaved community that we are honored to serve in the many cities and towns throughout Massachusetts. Together we leverage our experience, expertise, and influence to anticipate and address issues, build skills, develop practical solutions to business problems, and set the standard for quality service and ethical practice when serving bereaved families. MFDA represents over 500 funeral homes in the Commonwealth of Massachusetts and is New England's largest representative organization of funeral service professionals. During one year, our members provide services for over 45,000 families, and during that same period, over 2,000,000 people visit our member funeral establishments. We are also a founding member of the Northeast Funeral Service Partnership and a chartered state association of the National Funeral Directors Association. The MFDA has been awarded the 2021 Organizational Excellence Award by the New England Society of Association Executives for our work to serve Massachusetts bereaved families and communities during the Covid-19 pandemic.