

Business

By Bill Williams and
Wendy Russell Weiner

I've Been Notified of a Regulatory Audit ...

What's Next?

For many licensees, a notice from the state that a regulatory audit, an examination or inspection is coming up strikes fear in the heart ... but, it doesn't have to be that way.

If you're a cemetery or funeral home owner or operator or a pre-need seller, following this simple guide will ensure audits go as smoothly as possible – and that you don't find yourself landing in regulatory hot water. For most licensees, two common problems exist: failure to properly prepare and failure to properly respond to audit findings.

How to Prepare

Nearly every state statutory scheme requires that a licensee prepare certain documentation in anticipation of an audit, examination or inspection. As an example, let's look at Florida's requirement for "work papers" related to a preneed trust audit.

Florida requires that licensees prepare and provide accurate work

papers for the purpose of an audit. The work papers must include: a listing of all contracts for the audit period and their specific data (contract number, status, date, payment data, trust liability); trust account activity (deposits, accruals, withdrawals); and information related to accounts receivable. By administrative rule requirement, Florida

provides a licensee with at least 45 days-notice of an upcoming audit.

If you fail to provide accurate work papers, it is considered a violation of the law and can result in discipline. Forty-five days goes by quickly, and it will go even quicker if you have not been maintaining your records – or utilizing the services of a quality record keeper. If that's the case, you'll find that compiling the information to create and provide accurate work papers is quite difficult. Likewise, readying your facility for an inspection can sometimes require repairs, which may consume more time than the notice that is provided by your state.

Put simply, the key is to be proactive. Maintain audit, examination and inspection readiness rather than putting it off and scrambling to prepare when you get word that your state is coming to visit. While it seems like this should go without saying, licensees just like you are disciplined all too often for failure to adequately prepare for an audit, examination or inspection.

Many times, state auditors and

inspectors require licensees to change what they prepared to address specific concerns from the state. When that request is made, the state considers that the licensee failed to prepare accurate work papers or have on hand all necessary inspection components.

How to Respond

Once the state completes the audit, examination or inspection, you are, in most states, allowed to respond to the state's findings. That opportunity has an expiration date, however. Usually, you will have either 20 or 30 days to respond to the findings. We cannot stress strongly enough that you must take advantage of this opportunity. Licensees often overlook this option and just file the state's report. This leaves open issues that can result in significant discipline, which are often unwarranted but irrevocable since the licensee failed to provide explanation to the state.

In most states, the majority of disciplinary cases result from findings during an audit, examination or inspection. Those findings can add up quickly and it won't be fun,

as most state laws allow regulators to discipline a licensee for multiple offenses at one time, exponentially increasing the fines to be paid.

For example, during an inspection of a licensee's funeral home, the inspector may find that the licensee failed to maintain the following: 1) a certain log of complaints made by consumers against the facility, 2) its prep room, because three pieces of equipment were not available or properly sanitized, and 3) display current licenses of its funeral directors because their photographs were older than six years.

Those findings could result in discipline of well more than \$10,000. Of course, the funeral home did not fail to serve its families efficiently and effectively, nor did it engage in any activity that would endanger the health, safety and welfare of its customers or the public. Rather, the findings are unquestionably minor. Had the licensee responded to the inspection report to explain that 1) the inspector overlooked the complaint log provided by email, 2) the prep room equipment was unavailable because it was being sanitized and the inspector did not look in the right basin, and 3) the photographs were indeed taken within the correct period and a receipt was provided, the discipline would have been avoided.

Even more importantly, the licensee would have prevented the creation of a disciplinary record, which must be disclosed by the licensee – and often its principals – when seeking any regulatory license in the death-care and other industries.

What this all boils down to is that you must pay attention to the details of your business, even when those details seem less crucial than the important work of serving families and the community. All of your excellent service can be marred by a disciplinary record resulting from failure to prepare for and respond to an audit. •

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