

Common Regulatory Problems with Preneed Contracts

The Florida Division of Funeral, Cemetery and Consumer Services reports that the majority of complaints reported by consumers against licensees and the majority of violations noted by inspectors involved contracts – either failure to complete contracts properly or failure to handle them correctly.

The Division reports that many licensees' contracts are missing both significant required information and signatures. And, while these types of errors can result in a regulatory penalty, the more significant problem is that an unsigned contract is an unenforceable contract. An unenforceable contract may not subject to the default protections provided in Florida law.



Other problems are more significant, such as when a licensee fails to honor a contract. Common failures to honor occur when merchandise provided is either incorrect or inferior to what was selected, the licensee delays in providing the services or merchandise, or the licensee fails to provide a timely refund.

Potential Penalties:

First offenders face a reprimand and fines up to \$2,500, probation and suspension of up to 2 years and in cases, permanent revocation. Subsequent offenders face a reprimand, higher fines of up to the statutory max of \$5,000, longer terms of probation and suspension, and permanent revocation.

How to Avoid the Common Problems:

Just as with the potential penalties, the fixes for these problems vary. Of course, attention to detail is an excellent way to avoid so many problems in life, including these. Attention to detail will ensure that your contracts are completed correctly and that you obtain the required signatures. And, it likely enables you to avoid failing to make a timely refund payment as you watch the calendar.

To avoid problems with failure to deliver the promised merchandise, I urge my clients to refrain from including brand names of merchandise on their GPLs and CPLs. Good descriptions that comply with the FTC Funeral Rule are preferred.

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