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From: Nathan Bitner [nathan@hetrickfuneralhome.com]
Sent: Thursday, October 01, 2009 2:19 PM
To: IRRIC; jjewet@irrc.state.pa.us
Attachments: 16A-4815 comment.PDF

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Please see attached for my comments on 16A-4815.

Nathan Bitner

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Vaughn C. Miller, Supervisor

October 1, 2009

Dear Licensure Committee, (and) IRRC:

I oppose proposed regulation 16A-4815 for, among others, the following reasons:

These proposed regulations are an attempt to fix something which isn't broken. For decades, the existing contract options have worked well for Pennsylvania consumers. There has been no public outcry or harmed consumers that would demand these detrimental changes to funeral pre-planning contract options.

More importantly the proposed regulations will eliminate the protection and financial savings currently afforded to Pennsylvania consumers. Currently, while engaging in an irrevocable contract and trust, consumers eliminate those monetary funds from their list of assets when applying for SSI, Medicare and/or nursing home assistance. It is know as spending down. The funeral is taken care of but those funds are not considered belonging to the contract holder. Without the ability to place these funds into an irrevocable contract, those funds can be considered part of an individual's asset base and would have to be exhausted or surrendered erasing the ability for individual's to efficiently manage their own estates and make their own funeral arrangements unimpeded by other decision makers.

These proposed regulations blatantly ignores a comprehensive and well-reasoned Commonwealth Court en banc decision authored by Judge Dan Pellegrini (see Bean v. Department of State, State Board of Funeral Directors, 855 A.2d 148 (Pa Cmwlth. 2004), appeal denied, 584 Pa. 696, 882 A.2d 479 (2005)) which, among other things, said that the Funeral Board's rationale for requiring revocability or transferability of pre-need contracts was not supportable.

The simple fact is, **Pennsylvania consumers should have the right to decide** whether he or she wants an irrevocable pre-need agreement. These regulations eliminate that choice for no purposeful reason. These regulations do nothing to protect the consumers and, in fact, eliminate options and chill competition in Pennsylvania.

I strongly urge you to oppose this regulation.

Sincerely,

Nathan Bitner
President