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The Insurance Federation of Pennsylvania, Inc.

2010 JAN 29 PM 12:50

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Jonathan C. Greer
Vice President

January 29, 2010

John Jewett
Regulatory Analyst
Independent Regulatory Review Commission
331 Market Street, 14th Floor
Harrisburg, PA 17101

**Re: Revised Final Regulation - State Board of Funeral
Directors 16A-4816: Preneed Activities of Unlicensed
Employees, IRRC Number 2639**

Dear Mr. Jewett:

The Insurance Federation of Pennsylvania, on behalf of our life insurance members and the American Council of Life Insurers, recommends the Independent Regulatory Review Commission (IRRC) disapprove this regulation at its February 25 meeting. The regulation, which is only slightly revised from the version disapproved by the IRRC on November 19, fails to reconcile the objections we expressed then.

We remain concerned the regulation conflicts with the rights and obligations of insurers and insurance producers as they are licensed and regulated by the Insurance Department. The Insurance Department is well equipped to address possible consumer harm in the world of preneed insurance transactions. The prospect of overlapping regulation by the Board would only create unnecessary problems and consumer confusion.

Specifically, section 13.206a(d) states the regulation does not alter the scope of practice of an insurance producer

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pursuant to licensure from the Insurance Department. Oddly, this attempt to exclude producers from the scope of the regulation is immediately negated by subsequent language placing a new disclosure requirement on producers to inform consumers they are not acting on behalf of a funeral director or funeral entity.

First, the Board does not and should not have the authority to dictate the conduct of producers when selling, soliciting, or negotiating insurance products. We cannot imagine the Board welcoming Insurance Department intervention into the conduct of licensed funeral directors.

Second, this section's requirement will create needless consumer confusion. Insurance producers only act on behalf of insurance companies or consumers - they never act on behalf of a funeral director or funeral entity. We fail to see how consumers are well served by a disclosure requirement that is in conflict with itself.

Third, if the Board seeks a disclosure clarifying the interplay of licensed funeral directors and licensed insurance producers, such a requirement should be placed on the funeral director. Unlike the current approach, the Board has the authority to dictate the professional conduct of its licensees.

In spite of the attempted producer carve-out in section 13.206a(d), we are also concerned producers may, as part of their normal conduct, inadvertently run afoul of the regulation's prohibitions on the activities of "unlicensed individuals" established in 13.206a(c).

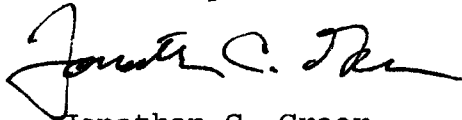
For example, section 13.206a(c)(3) prohibits an unlicensed individual from discussing with a consumer the selection of funeral services and merchandise. Producers and consumers, however, need this kind of information in order to make an informed decision on the amount of insurance necessary for a preneed funeral arrangement. As such, producers selling, soliciting, or negotiating preneed insurance policies could arguably be charged by the Board as operating as a funeral director without a license.

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In summary, the regulation is not in the public interest and in several key areas exceeds the Board's rulemaking authority by conflicting or restricting with the much more detailed statutory regulation of insurance producers. Creating such a possible conflict in state regulation is to be avoided wherever possible, especially where no major public protection is being advanced.

Thank you for the opportunity to comment, and we look forward to answering any questions.

Sincerely,



Jonathan C. Greer

C: Arthur Coccodrilli, Chairman
Independent Regulatory Review Commission

Thomas Blackburn, Regulatory Unit Counsel
Christopher McNally, Counsel
State Board of Funeral Directors

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From: Jewett, John H.
Sent: Friday, January 29, 2010 12:24 PM
To: Wilmarth, Fiona E.; Gelnett, Wanda B.; Johnson, Leslie A. Lewis
Subject: FW: 16A-4816 (# 2639)
Attachments: 16A-4816.pdf

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Final comments on #2639

From: Jonathan Greer [mailto:JGreer@ifpenn.org]
Sent: Friday, January 29, 2010 12:19 PM
To: Jewett, John H.; irrc@state.pa.us
Cc: chrncnally@state.pa.us; tblackburn@state.pa.us
Subject: 16A-4816 (# 2639)

Attached are our comments on the above captioned regulation. Please do not hesitate to call should you have any questions or comments.

Thank you.

Jonathan Greer