



RECEIVED

ASSOCIATION

2010 FEB 19 PM 1:06

INDEPENDENT REGULATORY
REVIEW COMMISSION

2639

February 18, 2010

John H. Jewett, Regulatory Analyst
IRRC
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Proposed Regulation 16A-4816, State Board of Funeral Directors

Dear Mr. Jewett:

The Pennsylvania Funeral Directors Association is the largest trade association of professional funeral directors in this country. We currently represent 1100 of the 1600 licensed funeral homes in Pennsylvania. As a group, we do not support the above-referenced proposed regulation. Insofar as the details of our objections, please refer to our correspondence of December 21, 2009.

It is important to note several matters with respect to the IRRC's upcoming meeting. In reviewing the public comments on IRRC's website, it is obvious that none of the stakeholders support passage of this regulation. We, of course, object to its promulgation for different reasons than our opponents. However, one point upon which we do agree is that to the extent that this regulation was supposed to clarify what unlicensed persons can do, we certainly do not believe this regulation has successfully accomplished that directive.

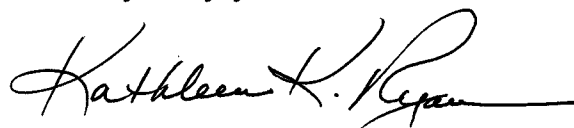
Second, it is apparent that the State Board of Funeral Director's primary motivation in promulgating this regulation is due to Judge Jones' strong recommendation to do so in the Walker v. Flitton case. Whether, the strong suggestion from a federal district court judge rises to the level of the "need" requirement of the Regulatory Review Act remains to be seen. In that regard, PFDA takes the position that the law in the Commonwealth is clear insofar as what unlicensed persons can do. See State Board of Funeral Directors v. Ferguson.

John H. Jewett, Regulatory Analyst
IRRC
February 18, 2010
Page 2 of 2

Walker did not overrule Ferguson and therefore, any attempt by the State Board to "reinterpret" §13 (c) of the Funeral Law through this regulation is unnecessary and will only lead to additional confusion and lack of enforcement of unlicensed activity.

Both John Eirkson, Executive Director of PFDA, and I will be present at the IRRC meeting scheduled for February 25, 2010. We would appreciate the opportunity to speak at this meeting, preferably last.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathleen K. Ryan", with a long horizontal flourish extending to the right.

Kathleen K. Ryan, Esquire
General Counsel, PFDA

c: Members of the State Board of Funeral Directors
Christopher McNally, Esquire
Thomas Blackburn, Esquire
Heidy Weirich, Board Administrator
Honorable Michael P. McGeehan, Chairman, House Professional Licensure Committee
Wayne Crawford, Executive Director, Republican Caucus,
House Professional Licensure Committee