

2639

RECEIVED

2009 NOV 10 AM 9:15

INDEPENDENT REGULATORY
REVIEW COMMISSION

10 November 2009

**Re: Pre-need Activities of Unlicensed Employee,
Final-Form Regulation #16A-4816 (#2639),
State Board of Funeral Directors**

Dear Commissioners:

Thank you for reading what will be a short communication relative to the Pre-Need Regulation.

As one who was born and raised in a funeral home and has been interacting with bereaved people for over fifty years, my comments will reflect a historical and practical point of view on the issue of Pre-Need Funeral counseling; leaving the legal aspect to others.

End of life issues are painful to all people, however they are more difficult in Pennsylvania due to an ignorance of options because of lack of consumer knowledge brought about by the calculated resistance to the dissemination of knowledge and service built into The Board Regulations.

I have intimate knowledge of the operation of The State Board of Funeral Directors, having served as its Vice-Chairman from 1980-1986. The Board gets its marching orders from The Pennsylvania Funeral Directors Association, a group dedicated to promoting a noncompetitive predatory involvement in the market place. A shameful posture magnified by the fact that one of the "Boards Consumer Advocates" is an attorney with old and deep connections to The Pennsylvania Funeral Directors Association. The Pre-Need Regulation is about protecting undertakers, not consumers. Knowledge is power which will disrupt the current marketplace for Pennsylvania Funeral Directors Association members.

There are many compassionate, ethical and honorable funeral directors serving here in Pennsylvania, who never spoke up due to fear of The Pennsylvania Funeral Directors Association and its surrogate State Board.

From Board experience, I know that "if you get out of line" or, "rock the boat" expect the Pennsylvania Funeral Directors Association to file a complaint resulting in the stress of investigation and possible sanctions from the State Board.

Why most funeral directors blindly follow the Pennsylvania Funeral Directors Association whose executive director or legal counsel have no background in death care escapes me; while successful funeral directors whose accomplishments based on compassionate services to others goes unheard.

After 1986, I was commended and reappointed by Governor Thornburg for a second term. As a result of testimony before your commission over twenty-five years ago, I crossed the Pennsylvania Funeral Directors Association causing them to issue a "Legislative Alert", (see attached), to their members to contact their Senators to vote against my confirmation. It had the desired effect and I did not get confirmed, however the same Senate confirmed my appointment to The Pennsylvania Public Television Commission shortly thereafter. The Pennsylvania Funeral Directors Association tactic of "Legislative Alert" mimics their latest "Under Attack", (see attached) same old play book.

Thank you for your public service.

Yours truly,

BART H. CAVANAGH, SR.

Attachments: Legislative Alert
Under Attack

URGENT from PFDA

"YOUR FD LICENSE IS UNDER ATTACK"

Action Needed Now!!!!

The State Board of Funeral Directors has proposed Regulation 16A-4816, which helps to define what an "unlicensed employee can do". This regulation has been under review, debate & discussion for the past four (4) years. There has been significant opportunities for all interested parties to participate in meetings & hearings to comment.

We anticipate that the PCCFA (PA Cemetery Cremation and Funeral Association), Ernie Heffner, and their attorney, Jim Kutz, are going to be attacking the validity of this proposed Regulation 16A-4816. Their objective --- either through their current litigation in the federal court right now or in the PA legislature --- is to overturn the current Funeral Director Law and have it re-written to their liking.

PFDA supports this current regulation (as written), as meeting the parameters of federal Judge John Jones in the Walker decision, addressing what an unlicensed employee can do as well as complying with the PA Funeral Director Law, which the Ferguson and Cornerstone court decisions have clearly set forth.

WHAT YOU HAVE TO DO.....

- #1 Write Arthur Coccodrilli, Chairman, IRRRC, 333 Market St., 14th Floor, Harrisburg, PA 17101 & tell him you support Regulation 16A-4816 & that unlicensed employees should not be able to sell preneed funeral arrangements.
- #2 Write or call your PA State House member & State Senator & ask them to write to IRRRC & ask IRRRC to pass Regulation 16A-4816.
- #3 Attend the IRRRC hearing on November 19th. Check IRRRC's website for time & location.

Please send your letters & make your calls by November 13th!!!

ATTACHED ARE THE KEY POINTS TO BE MADE WITH IRRRC & YOUR STATE LEGISLATORS

TIME FOR A CHANGE

SEPTEMBER 12, 1985

The Pennsylvania Senate will be voting in the very near future on two of Governor Thornburgh's reappointments to the Pennsylvania State Board of Funeral Directors. The two individuals who are up for Senate confirmation are Reverend Dr. Horace Sills and Mr. Bart Cavanagh.

The Executive Committee of P.F.D.A. by unanimous vote, strongly urges its membership and the leaders of its local associations to take the following action:

1. INDIVIDUAL MEMBERS AND LOCAL ASSOCIATION OFFICERS SHOULD IMMEDIATELY CALL YOUR STATE SENATOR AND REQUEST THE FOLLOWING ACTION.

a. P.F.D.A. supports the confirmation of Reverend Dr. Horace Sills as a public member of the State Board of Funeral Directors. Dr. Sills has shown excellent leadership qualities and has represented the consumer interest on the State Board in a fair and judicious manner. We strongly urge your support for Dr. Sills.

b. P.F.D.A. opposes the confirmation of Mr. Bart Cavanagh as a member of the State Board of Funeral Directors. Mr. Cavanagh's persistent and continuing public support of the anti-consumer policy of requiring only 70% of the public's pre-need payments be placed in trust is contrary to the law. His avowed policy was overwhelmingly rejected by Senate and House committees; called "unconscionable" by the Independent Regulatory Review Commission and recently determined to be invalid by the Commonwealth Court. In spite of such rejection, Mr Cavanagh continues to publicly support this anti-consumer policy.