

#2639

**From:** Jewett, John H.  
**Sent:** Thursday, November 12, 2009 8:33 AM  
**To:** Gelnett, Wanda B.; Wilmarth, Fiona E.; Johnson, Leslie A. Lewis  
**Subject:** FW: Opposition Comments to Reg. 16A-4816 (IRRC #2639)  
**Attachments:** Comments to IRRC on 4816.pdf

FYI – This email and its attachment are a final comment on #2639.

It appears that he also cc'ed the IRRC inbox.

**From:** Robert Rae [mailto:rrae@goldenconsiderations.com]  
**Sent:** Wednesday, November 11, 2009 9:14 AM  
**To:** IRRC; Jewett, John H.  
**Subject:** Opposition Comments to Reg. 16A-4816 (IRRC #2639)

RECEIVED  
2009 NOV 12 AM 8:36  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

Dear Chairman Coccodrilli and Attorney Jewett:

I respectfully submit the attached comments in opposition to Regulation # 16A-4816 (IRRC#2639)

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Robert S. Rae, President  
Golden Considerations, Inc.  
2773 S. Queen Street  
Dallastown, PA 17313  
[www.goldenconsiderations.com](http://www.goldenconsiderations.com)



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November 10, 2009

2009 NOV 12 AM 9:36

Arthur Coccodrilli  
Chairman IRRC  
333 MarketSt. 14<sup>th</sup> Floor  
Harrisburg, PA 17101  
irrc@irrc.state.pa.us

INDEPENDENT REGULATORY  
REVIEW COMMISSION

Mr. Coccodrilli:

My name is Bob Rae. I am President and CEO of Golden Considerations Inc., one of nation's largest preneed and final expense insurance agencies. Last year our network of funeral professionals (both licensed and unlicensed), financial planners, elder law attorneys, and social workers had the privilege of assisting over 8000 consumers preplan. In addition to the twenty-seven states in which we are licensed to conduct business, I am also licensed by the Pennsylvania Commonwealth as both Funeral Director and insurance agent. It is with this background and experience I write this letter to voice my opposition to proposed regulation #16-A 4816 (IRRC #2639). This Final-Form version contradicts itself, will undoubtedly cause even more confusion within our industry, and will ultimately hurt the consumer. I am speaking firsthand when I tell you that if this regulation goes forward in its current form, Pennsylvania jobs will be lost and consumer costs will increase.

The State Board of Funeral Directors should be encouraged, if not mandated, to revisit their interpretation of funeral director law. I believe their outdated and erroneous interpretation of Section 13 (c) is the root of most of the problems. Unfortunately, it is also their arrogance and blatant disregard for the opinions of Judge Jones in *Walker vs. Flitton* and the excellent suggestions previously offered by this committee that has resulted in the anti-consumer and protectionist penmanship found in this proposed regulation.

A side note in this matter that cannot be ignored is that a particular stakeholder, one that has a great deal of influence over the funeral board, is on a mission to rally its troops. This is being done by creating the misconception that if unlicensed employees or agents remain permitted to disseminate truthful and accurate information about preplanning, the funeral director's license will somehow be devalued. The membership is also being led to believe that if you are a stakeholder against this regulation, your obvious goal must be to permit unlicensed individuals to run unabated throughout the Commonwealth. Nothing could be further from the truth! The stakeholders with whom I am familiar believe that in the Commonwealth of Pennsylvania, a licensed funeral director must play a part in the preplanning process and that they are ultimately responsible for their employees and the agents representing the funeral home. *Just as 13 (c) intended!*

**Golden Considerations, Inc.**

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For your convenience and review below are the comments I submitted to the Board earlier this year regarding 13 (c).

To begin, please note the title of Section 13; **Practice without a license; Exceptions.** This section addresses the exceptions to the rule. For instance, it is here we find legislators' permitting someone other than a funeral director to make tentative funeral arrangements if a death had occurred. Thirteen (d) reads: ***"Tentative funeral arrangements after a death has occurred can be made by an unlicensed member of the funeral home staffing in the event the licensed funeral director is temporarily absent"***. If legislators found it permissible for someone other than a funeral director to make arrangements after a death occurred, the intent surely would not have been to prohibit personnel from the funeral home in making tentative arrangements with those seeking information while decisions were not clouded by grief.

With that said let's look at 13. (c), ***"No person other than a licensed funeral director shall directly or indirectly, or through an agent, offer to or enter into a contract with a living person to render funeral services to such person when needed"***. The intent of this statement can quickly be determined by simplifying the subject: **No person other than a licensed funeral director** could have been written as **Only a licensed funeral director** or **Nobody but a licensed funeral director**. These simpler versions of Section 13 (c) clearly show the legislative intent: **Only a licensed director** shall directly or indirectly, or through an agent, offer to or enter into a contract with a living person to render funeral services to such person when needed. **Nobody but a licensed funeral director** shall directly or indirectly, or through an agent, offer to or enter into a contract with a living person to render funeral services to such person when needed. This would be consistent with 13. (d) and the title of the Section.

Further sentence dissection continues to clarify:

- **Only a licensed funeral director shall directly offer to or enter into...**
- **Only a licensed funeral director shall indirectly offer to or enter into...**
- **Only a licensed funeral director shall through an agent offer to or enter into...**
- **Nobody but a licensed funeral director shall directly offer to or enter into...**
- **Nobody but a licensed funeral director shall indirectly offer to or enter into...**
- **Nobody but a licensed funeral director shall through an agent offer to or enter into...**

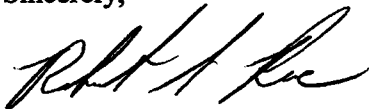
After this brief exercise one can now read the original version with more clarity:

- **No person other than a licensed funeral director shall directly offer to or enter into...**
- **No person other than a licensed funeral director shall indirectly offer to or enter into...**
- **No person other than a licensed funeral director shall through an agent offer to or enter into...**

One last observation - if the legislators' intent was to prohibit *anyone* from assisting a funeral director during the course of a prearrangement, the phrase directly or indirectly, or through an agent would have been omitted just as it was in 13 (b), the statement would have simply read; **No person other than a licensed funeral director shall offer to or enter into a contract with a living person to render funeral services to such person when needed.**

Thank you once again for taking the time to consider this matter. Should you have any questions, or if I can be of assistance in any manner whatsoever, please do not hesitate to call or email me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert S. Rae". The signature is fluid and cursive, with the first name "Robert" being the most prominent part.

Robert S. Rae, President  
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