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INDEPENDENT REGULATORY
REVIEW COMMISSION

FORE
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ONE FORETHOUGHT CENTER
BATESVILLE, IN 47006

1-800-648-0075

VIA E-MAIL:

irrc@irrc.state.pa.us

jjewett@irrc.state.pa.us

November 9, 2009

(Original Mailed)

Mr. John H. Jewett
Regulatory Analyst
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Pennsylvania Administrative Code Title 49, Part I, Subpart A, Chapter 13 - No. 16A-4816
(Preneed activities of unlicensed employees - #2639)

Dear Mr. Jewett:

Forethought Financial Group, Inc., through its subsidiaries, provides innovative insurance and financial solutions for families managing retirement and end-of-life needs. Headquartered in Indianapolis, Indiana, our companies provide life insurance and annuities.

Forethought's insurance subsidiary, Forethought Life Insurance Company, has been consistently recognized by A.M. Best for its financial strength. Forethought Life Insurance Company is licensed to sell its insurance products in 49 states, the District of Columbia and Puerto Rico and has been so licensed in Pennsylvania since April 1, 1986.

Forethought, through its life insurance subsidiary, has assets owned and under management in excess of \$4.0 billion, approximately \$1 billion in annual revenue, more than \$5.6 billion of life insurance and annuity business in force, and has served more than 2 million policyholders since 1985.

We appreciate this opportunity to comment further on the Final-Form Regulation 16A-4816 regarding the preneed activities of unlicensed persons ("Regulation") proposed by the Pennsylvania State Board of Funeral Directors ("Board"). Forethought provided comments to the Board previously in connection with this rulemaking proceeding on several occasions and I have attached a copy of our last set of comments dated March 9, 2007. Forethought now respectfully submits additional comments on the Regulation for consideration by the Independent Regulatory Review Commission ("IRRC").

Forethought concurs with the comments Assurant Solutions - Preneed Division submitted to the IRRC by its letter dated October 16, 2009, in opposition to the adoption of the Regulation in its present form.

Mr. John H. Jewett

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Forethought would also like the record of these proceedings to reflect the fact that the insurance-funded prearranged funeral agreements funded by life insurance policies issued by the Assurant life insurance companies and Forethought **do not** involve any purchase of funeral goods and/or services prior to the death of the intended funeral recipient or any payment to a funeral home until after the agreed-upon funeral goods and/or services have been delivered. Such insurance-funded prearranged funeral programs only involve the sale of a life insurance policy where all payments are made directly to the insurance company in the form of premiums and such sales should properly be regulated in accordance with the applicable provisions of the State Insurance Code.

We appreciate this opportunity to comment on the Regulation. Please contact me via e-mail at walt_dixon@forethought.com or by phone at (812) 933-6843 should you have any questions or comments relating to the points set forth above.

Yours truly,

A handwritten signature in cursive script that reads "Walter T. Dixon". The signature is fluid and somewhat stylized, with the first and last names being more prominent than the middle initial.

Walter T. Dixon
Vice President/Corporate Counsel
Forethought Life Insurance Company

Enclosure

cc: Thomas A. Blackburn, Regulatory Unit Counsel
State Board of Funeral Directors
Department of State
P.O. Box 2649
Harrisburg, PA 17105-2649



VIA E-MAIL
(Original Mailed)

March 9, 2007

Ms. Michelle T. Smey
Board Administrator
Commonwealth of Pennsylvania
Department of State
Bureau of Professional and Occupational Affairs, State Board of Funeral Directors
P.O. Box 2649
Harrisburg, PA 17105-2649

RE: Forethought Life Insurance Company ("Forethought") – Comments in connection with proposed rulemaking concerning preneed activities by unlicensed persons—Pennsylvania Administrative Code Title 49, Part I, Subpart A, Chapter 13

Dear Ms. Smey:

Pursuant to your letter of February 6, 2007, which was addressed to Forethought and concerned the above-captioned matter, we appreciate this opportunity to comment further on the rules ("Rules") the Pennsylvania State Board of Funeral Directors ("Board") has proposed regarding preneed activities by persons who are not licensed as funeral directors. Forethought provided comments previously in connection with this rulemaking proceeding and now respectfully submits additional comments on the revised Rules for the Board's consideration.

Unless otherwise indicated, all references below are to Section 13.206a. "Utilization of unlicensed employees by a funeral entity" of the Rules.

1. We suggest that the term "employee" throughout this Section be amended to read: "employee or agent". This will permit those funeral entities which desire to do so to retain the services of unlicensed individuals on an "independent contractor" basis and not as employees. The agreement between the funeral entity and the agent should, of course, provide that the funeral entity is professionally responsible for the actions of any unlicensed employee or agent so long as that individual is acting within the scope of the authority granted under the agreement.
2. A funeral entity should be given the flexibility to identify the written agreement between the entity and any unlicensed employee or agent in a way that most accurately describes their business relationship and is consistent with the particular entity's operational structure.

3. As the Board is well aware, insurance-funded prearranged funeral agreements typically involve a funeral prearrangement but no sale of, or payment for, funeral goods and/or services until after the death of the insured individual. As long as the agent is duly licensed and appointed to sell the life insurance product which the customer may then elect to use to “fund” his or her funeral prearrangement, the agent should be allowed to receive a commission based upon the sale of the insurance product.
4. As long as the funeral entity is held “professionally responsible” for all acts of an unlicensed “employee or agent” authorized pursuant to the terms of the agreement under which such employee or agent was hired, there should be no need to require a customer to have a “face-to-face” consultation with a licensed funeral director before entering into or offering to enter into a preneed funeral contract.
5. The “20-point or larger print” requirement for the proposed “notice” far exceeds the type size requirements typically found under state and federal law for such “consumer notices”. Ten-point bold, and sometimes upper-case, is the type size most often required by the FTC’s Trade Regulation Rules and state preneed funeral laws for these types of notices. Such a notice would also be inappropriate, as well as confusing to prospective customers, in those situations where the document presented to a customer does not directly relate to a preneed funeral contract, e.g., an application for a life insurance policy.
6. As long as the funeral entity has authorized an unlicensed “employee or agent” to enter into preneed funeral contracts on its behalf, and the entity has agreed to be held “professionally responsible” for all authorized activities of the employee or agent in connection with such sales, such activity should be permitted. The Board might also wish to consider requiring that all preneed funeral contracts entered into on behalf of a funeral entity by unlicensed employees or agents be reviewed and then countersigned by a licensed funeral director on behalf of the entity.
7. We see no reason to limit the preneed activities of unlicensed persons to only one funeral entity so long as any such person is acting in accordance with the terms of a written agreement with the funeral entity as required by the Rules.

We appreciate this opportunity to comment on the draft Rules. Please contact me via e-mail at: Walt_Dixon@Forethought.com or by phone at 812 933-6843 should you have any questions or comments relating to the points raised above.

Yours truly,

A handwritten signature in black ink that reads "Walter T. Dixon". The signature is written in a cursive style with a large, stylized initial "W".

Walter T. Dixon
Corporate Counsel
Forethought Life Insurance Company