

2639

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Gelnett, Wanda B.

From: Jewett, John H.
Sent: Saturday, November 14, 2009 3:44 PM
To: Gelnett, Wanda B.; Wilmarth, Fiona E.; Johnson, Leslie A. Lewis
Subject: FW: Signed Copy Comments 16A-4816
Attachments: IRRC 4816 Comments.rtf

2009 NOV 16 AM 7:22

INDEPENDENT REGULATORY
REVIEW COMMISSION

Final comments on #2639

From: DVDHEISTER@aol.com [mailto:DVDHEISTER@aol.com]
Sent: Friday, November 13, 2009 5:21 PM
To: IRRC; Jewett, John H.
Subject: Signed Copy Comments 16A-4816

Attached please find my signed copy of comments.
Thank you.
Donald E. Morris

MARKETING MASTERS, INC.

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INDEPENDENT REGULATORY
REVIEW COMMISSION

November 13, 2009

Honorable Arthur Coccodrilli
Chairman
Independent Regulatory Review Committee
333 Market Street - 14th Floor
Harrisburg, PA 17101

RE: Proposed Regulation 16A-4816

Dear Mr. Coccodrilli:

I write this letter asking that the IRRC reject Funeral Board proposed regulation 16A-4816.

I have been doing consulting with funeral homes (and cemeteries and monument dealers) since 1985. I have worked with funeral home establishments of all sizes across our Commonwealth helping them develop pre-need programs for their existing families and potential customers. Many funeral homes promote pre-need to first, solidify and second, expand their market share. More times than not, we have used "unlicensed" employees or agents to promote the funeral home's business.

These "unlicensed" employees or agents do not hold themselves out as funeral directors, nor should they. But they are able to effectively communicate the offer of goods and services of one or more funeral homes to the overwhelming satisfaction of clients and potential clients. I do not recall one incident when a consumer was dissatisfied when the funeral home's honest and legitimate representative was not also a licensed funeral director. Clearly, any representation made by an "unlicensed" employee still reflects - and should have appropriate outcomes to - the funeral home and funeral director they represent.

Despite the fact that "unlicensed" representations of funeral homes have caused no consumer problems, these regulations have been presented to eliminate a very reasonable and consumer-friendly ability to promote pre-need. The ECONOMIC IMPACT hurts people currently employed as representatives of funeral homes. It will put them out of work. **Moreover, the reduction or likely elimination of pre-need will have a negative economic impact on consumers.**

When the Federal Trade Commission established the Funeral Rule in 1984, one of the main thrust of concerns, as the FTC concluded was: "The funeral transaction has several distinctive characteristics which serve to place the consumer in a disadvantage bargaining position relative to the funeral director and leave the consumer especially vulnerable to unfair and deceptive practices. These characteristics are: 1. The disoriented effect of bereavement. 2. The feeling of guilt or other emotional consequences of death. 3. The minimum time available to make arrangements."

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In other words, people spend more money when the funeral transaction is "at-need" versus buying decisions when the funeral transaction is "pre-need."

I personally have the pleasure of knowing many licensed funeral directors. And like any industry as a whole, the funeral profession is filled with caring and thoughtful individuals. However, these regulations, I believe, have been promoted to eliminate a progressive funeral director's ability to promote his/her business and turn Pennsylvania back into an "at-need" purchasing state.

Please reject these regulations. Request the Funeral Board embrace input given to them in the several public hearings and sessions to change these regulations over the last several years (you'll note that effectively all input, other than that of the PFDA, has been totally ignored).

By the way, some of the input given, allowing "unlicensed" employees and agents to work for funeral homes, maintains that the funeral director and funeral home remains totally responsible for any representations made by the "unlicensed" employee or agent; that disclosure be given; that the funeral director must ratify the agreement or understanding within an (reasonable) amount of time. All these suggestions protect the profession while maintaining superior consumer options.

Finally, it is ironic that the Funeral Board does not propose regulations changing "unlicensed" employee activities during at-need situations. Right now, ANY employee of a funeral home can talk to a family and sell them a funeral when a death has occurred. Unlike "pre-need" situations, unlicensed at-need employees do not offer a three-day right to cancel, can not offer any substantial time to think about purchasing decision and have no ability to ameliorate the sadness, sorrow and grief that often accompanies a loved one's death.

Thank you for your consideration of my comments.

Sincerely Yours,

/s/ Donald E. Morris

Donald E. Morris

Copy: Attorney Blackburn
Funeral Directors Board
Post Office Box 2649
Harrisburg, Penn. 17105-2649